ADJOURNMENT

Mr. RAMSPECK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 43 minutes p. m.) the House adjourned until tomorrow, Friday, January 21, 1944, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON BANKING AND CURRENCY

The House Committee on Banking and Currency will meet at 10:30 a. m. on Friday, January 21, 1944, to consider the bill H. R. 3873, introduced by Mr. PATMAN.

COMMITTEE ON THE PUBLIC LANDS

The hearings on H. R. 2596, to protect naval petroleum reserve No. 1 will be continued on Friday, January 21, 1944, at 10:30 a. m.

COMMITTEE ON IMMIGRATION AND NATURALIZATION

The Committee on Immigration and Naturalization will hold hearings at 10:30 a. m. on Tuesday, January 25, and Wednesday, January 26, 1944, on H. R. 2701, H. R. 3012, H. R. 3446, and H. R. 3489.

COMMITTEE ON THE MERCHANT MARINE AND FISHERIES

The Committee on the Merchant Marine and Fisheries will hold a public hearing on Thursday, February 3, 1944, at 10 a. m., on H. R. 2809, to amend section 511 of the Merchant Marine Act, 1936, as amended.

The Committee on the Merchant Marine and Fisheries will hold a public hearing on Thursday, February 10, 1944, at 10 a. m., on H. R. 2652, to amend section 222 (e) of subtitle "Insurance of Title II of the Merchant Marine Act, 1936." as amended.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ELLIOTT: Joint Committee on the Disposition of Executive Papers. House Report No. 1007. Report on the disposition of certain papers by certain agencies of the Federal Government. Ordered to be printed.

Mr. ELLIOTT: Joint Committee on the Disposition of Executive Papers. House Report No. 1008. Report on the disposition of certain papers by certain agencies of the Federal Government. Ordered to be printed.

Mr. ELLIOTT: Joint Committee on the Disposition of Executive Papers. House Report No. 1009. Report on the disposition of certain papers by certain agencies of the Federal Government. Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SAUTHOFF:

H. R. 4025. A bill relating to the tax liability of members of the armed forces for taxable years beginning prior to their entering such forces; to the Committee on Ways and Means.

By Mr. PETERSON of Florida:

H. R. 4026. A bill to provide that veterans of the Second World War upon separation from the land or naval forces be furnished with certain information with respect to their national service life insurance, and for other purposes; to the Committee on World War Veterans' Legislation.

H. R. 4027. A bill to amend section 4, Public Law No. 198, Seventy-sixth Congress, to authorize certain hospitalization of retired officers and enlisted men of the armed forces who are peacetime veterans; to the Committee on World War Veterans' Legislation.

By Mr. WORLEY:

H. Res. 403. Resolution making S. 1285, a bill to facilitate voting, in time of war, by members of the land and naval forces, members of the merchant marine, and others, absent from the place of their residence, and for other purposes, a special order of business; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BECKWORTH:

H. R. 4028. A bill for the relief of John Burl Townsend; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

4427. By Mr. HERTER: Petition signed by sundry residents of Newton, Mass., favoring the passage of House bill 2082, to prohibit the manufacture, sale, and transportation of intoxicating liquors during the present war and for several months thereafter; to the Committee on the Judiciary.

4428. By Mr. MOTT: Petition signed by Rev. R. T. Cookingham, of Monroe, and 29 other citizens of Benton County, Oreg., urging enactment of House bill 2082; to the Committee on the Judiciary.

4429. By Mr. SCHIFFLER: Petition of Mary B. Cunningham and other residents of Chester, W. Va., urging passage of House bill 2082; to the Committee on the Judiciary.

4430. By Mr. SMITH of Wisconsin: Petition of the Department of Agriculture of Austin, Tex., relative to subsidies; to the Committee on Agriculture.

SENATE

FRIDAY, JANUARY 21, 1944

(Legislative day of Tuesday, January 11, 1944)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

Our Father God, in the creative faith by which we really live we come to Thee, who art the source of all excellence, with the assurance that in Thy sight Thy children under all skies have a value and a worth independent of any earthly allegiance. The very justice and social welfare we are here as public servants to preserve, promote, and protect is rooted and grounded in Thy sovereignty. Against the debasing idolatry of the god-state which, instead of altars of prayer, rears prisons of the mind and heart, we have pledged our all. Even as we face the forces of evil with the sword of our material might we know that more vital than earthly armament, if we are to be the instruments of Thy purpose, is the putting on of the whole armor of God; for only as we put on that shining mail can we fight and pray for the peace and good will of the world-wide family of God.

In this Thy glorious day we commit our cause, our allies, our country, and ourselves into Thy hands, praying that, unworthy though we be, Thou wilt use us to defeat the defiling blasphemies which defy Thy kingdom, keeping us brave, nerving us for sacrifice, and crowning our effort at last with the triumph of the high aims for which we fight—the establishment of a brotherhood of nations where justice and truth and freedom shall be secure in all the earth. We ask it in the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Thursday, January 20, 1944, was dispensed with, and the Journal was approved.

READING OF WASHINGTON'S FAREWELL ADDRESS

The VICE PRESIDENT. Pursuant to the order of January 24, 1901, the Chair designates the Senator from Utah [Mr. THOMAS] to read Washington's Farewell Address on February 22, next.

NOTICE OF HEARING ON NOMINATION OF STERLING HUTCHESON TO BE UNITED STATES DISTRICT JUDGE, EASTERN DISTRICT OF VIRGINIA

Mr. KILGORE. Mr. President, as chairman of the Subcommittee of the Committee on the Judiciary, and in accordance with the rules of the committee, I desire to give notice that a public hearing will be held on the 28th day of January 1944, at 10:30 a. m. in the Senate Judiciary Committee room, upon the nomination of Sterling Hutcheson, of Virginia, to be United States district judge for the eastern district of Virginia. At that time and place all persons interested in the nomination may make representations.

NOTICE OF INTENTION TO ADDRESS THE SENATE

Mr. GUFFEY. Mr. President, I wish to give notice that next Monday, or at the first session of the Senate after the conclusion of the consideration of the pending tax bill, I shall make a few remarks in reply to the address made yesterday by the senior Senator from Nebraska [Mr. BUTLER].

CALL OF THE ROLL

Mr. BARKLEY. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Green	Radcliffe
Andrews	Guffey	Reed
Austin	Gurney	Revercomb
Bailey	Hatch	Reynolds
Bankhead	Hawkes	Robertson
Barkley	Hayden	Russell
Bilbo	Holman	Shipstead
Bone	Johnson, Colo.	Stewart
Brooks	Kilgore	Taft
Buck	La Follette	Thomas, Idaho
Burton	Langer	Thomas, Okla.
Bushfield	Lodge	Thomas, Utah
Butler	Lucas	Tobey
Byrd	McCarran	Truman
Capper	McClellan	Tunnell
Caraway	McFarland	Tydings
Chavez	McKellar	Vandenberg
Clark, Mo.	Maloney	Van Nuys
Connally	Maybank	Wagner
Danaher	Mead	Wallgren
Davis	Millikin	Walsh, Mass.
Downey	Moore	Walsh, N. J.
Eastland	Murdock	Wheeler
Ellender	Murray	Wherry
Ferguson	Nye	White
George	O'Daniel	Wiley
Gerry	O'Mahoney	Willis
Gillette	Overton	

Mr. BARKLEY. I announce that the Senator from Virginia [Mr. GLASS] is absent from the Senate because of illness.

The Senator from Kentucky [Mr. CHANDLER], the Senator from Idaho [Mr. CLARK], and the Senator from South Carolina [Mr. SMITH] are necessarily absent.

The Senator from Alabama [Mr. HILL] is detained on public business.

The Senator from Florida [Mr. PEPPER] is absent because of a slight cold.

The Senator from Nevada [Mr. SCRUGHAM] is absent on official business.

Mr. WHITE. The Senator from Oregon [Mr. MCNARY] and the Senator from Iowa [Mr. WILSON] are absent because of illness.

The Senator from Minnesota [Mr. BALL], the Senator from New Hampshire [Mr. BRIDGES], and the Senator from Maine [Mr. BREWSTER] are necessarily absent.

The VICE PRESIDENT. Eighty-three Senators have answered to their names. A quorum is present.

EXECUTIVE COMMUNICATIONS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred as indicated:

COMPENSATION OF SPECIAL ATTORNEYS, ETC., DEPARTMENT OF JUSTICE

A letter from the Attorney General, transmitting, pursuant to law, a report showing the special assistants employed during the period from July 1, 1943, to January 1, 1944, under the appropriation "Compensation of special attorneys, etc., Department of Justice" (with an accompanying report); to the Committee on the Judiciary.

ANNUAL REPORTS, UNITED STATES PUBLIC HEALTH SERVICE

A letter from the Acting Administrator of the Federal Security Agency, transmitting, pursuant to law, the combined annual reports of the United States Public Health Service covering the period from July 1, 1941, through June 30, 1943 (with an accompanying report); to the Committee on Finance.

REPORT ON THE ACTIVITIES OF THE SMALLER WAR PLANTS CORPORATION

A letter from the Chairman of the War Production Board, transmitting, pursuant to law, the ninth report of his operations under the act to mobilize the productive facilities of small business (with an accompanying report); to the Committee on Banking and Currency and ordered to be printed.

REPORT OF FEDERAL SURPLUS COMMODITIES CORPORATION

A letter from the Administrator of the War Food Administration, transmitting, pursuant to law, the report of the Federal Surplus Commodities Corporation for the fiscal year ended June 30, 1943 (with an accompanying report); to the Committee on Agriculture and Forestry.

NAMES AND COMPENSATION OF MEMBERS AND EMPLOYEES, FEDERAL POWER COMMISSION

A letter from the Chairman of the Federal Power Commission, transmitting, pursuant to law, a statement showing the names and compensation of members and employees of the Commission as of June 30, 1943 (with an accompanying report); to the Committee on Commerce.

PERSONNEL REQUIREMENTS OF A DEPARTMENT AND AN ADMINISTRATION

Letters from the Under Secretary of the Interior, transmitting, pursuant to law, an estimate of personnel requirements for the quarter ended December 31, 1943, for certain bureaus and offices of the Department, and also from the Administrator of the War Shipping Administration, transmitting, pursuant to law, revised estimates of personnel requirements for the quarter ending March 31, 1944 (with accompanying papers); to the Committee on Civil Service.

REDUCTION OF NONESSENTIAL FEDERAL EXPENDITURES—REPORT ON PENALTY MAIL (S. DOC. NO. 147)

The VICE PRESIDENT laid before the Senate a letter from Mr. BYRD, chairman of the Joint Committee on Reduction of Nonessential Federal Expenditures, transmitting, pursuant to law, an additional report of the joint committee on the subject of penalty mail, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. BYRD. Mr. President, I ask unanimous consent that the report of the Joint Committee on Reduction of Nonessential Federal Expenditures, on the question of penalty mail, just laid before the Senate, be printed in the body of the RECORD, and also as a Senate document.

The VICE PRESIDENT. Is there objection?

Mr. HAYDEN. Mr. President, let me ask the Senator from Virginia why it is necessary, in view of the shortage of paper, to print the report both in the body of the RECORD and as a public document?

Mr. BYRD. It is an important matter. The report is on a question which was referred to the committee by the Committee on Appropriations, with respect to an investigation of penalty mail. The report is not long, and I think it should get all the publicity possible.

Mr. HAYDEN. If it were printed as a document it could be sent to the Committee on Appropriations, but to print it both as a document and in the RECORD seems to me an unnecessary expense to the Government.

Mr. CLARK of Missouri. Mr. President, it seems to me there is a perfectly valid explanation. So far as Senators are concerned, particularly, the most convenient way for them to examine a report, or an amendment, or anything of the kind, is to read it in the RECORD. So far as the public at large is concerned, when constituents write in and ask for a report or a statement, it is much easier to send to the Document Room and have it sent than to clip it out of the RECORD.

Mr. HAYDEN. Ordinarily we do not print such a report as a document and in the RECORD.

Mr. BYRD. If it were not of sufficient importance I would not ask to have it printed in the RECORD and as a document.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Virginia?

There being no objection, the report was ordered to be printed and to be printed in the RECORD, as follows:

REDUCTION OF NONESSENTIAL FEDERAL EXPENDITURES—PENALTY MAIL

REPORT TO THE PRESIDENT OF THE UNITED STATES, THE VICE PRESIDENT OF THE UNITED STATES, PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

In accordance with title 6 of the Revenue Act of 1941, Public Law 250, Seventy-seventh Congress, an additional report herewith is presented by the Joint Committee on Reduction of Nonessential Federal Expenditures.

Introductory statement

Section 204 of the Treasury and Post Office Departments Appropriation Act, 1944, approved June 30, 1943, provided the following:

"The Joint Committee on Investigation of Nonessential Federal Expenditures is hereby directed to make a study of the problem of penalty mail in all of the departments and branches of the Government, with a view to eliminating unnecessary volume and reducing costs, and shall report its findings and recommendations by bill or otherwise to Congress not later than the first day of the next regular session of the Seventy-eighth Congress. The departments and agencies of Government shall furnish such information and detail such personnel as may be requested by the committee to assist in its investigation."

Accordingly an investigation was initiated by the committee, and hearings were held on October 27, 1943. The committee is appreciative of the splendid cooperation of the Bureau of the Budget and Post Office Department in making available the necessary data upon which this report is based.

The report will be confined to a discussion of "penalty mail," which is official mail originating in the executive departments and agencies.

Increases in the amount of penalty mail

The following table shows for the years 1934 through 1943 the number of pieces of penalty mail, the weight of such mail, and the estimated revenue at regular postage rates which this mail would have brought the Post Office Department:

TABLE I.—*Penalty matter (exclusive of Post Office Department)*

	Penalty mail	
	Pieces	Pounds
Fiscal year—		
1934	528, 272, 050	80, 875, 988
1935	622, 550, 939	84, 983, 288
1936	667, 475, 745	90, 809, 704
1937	740, 287, 213	96, 160, 181
1938	882, 352, 057	94, 551, 521
1939	967, 583, 181	93, 168, 643
1940	995, 571, 096	103, 244, 823
1941	1, 118, 461, 730	150, 987, 345
1942	1, 516, 015, 444	236, 529, 015
1943	1, 956, 073, 568	295, 711, 589

TABLE I.—*Penalty matter (exclusive of Post Office Department)*—Continued

	Estimated revenue at regular postage rates		
	Regular rates	Registry	Total
Fiscal year—			
1934	$22, 893, 584	$201, 298	$23, 094, 882
1935	28, 418, 484	2, 863, 116	31, 281, 600
1936	29, 697, 013	2, 539, 256	32, 236, 269
1937	32, 625, 126	1, 456, 801	34, 081, 927
1938	34, 166, 571	1, 524, 236	35, 690, 807
1939	36, 408, 851	1, 822, 274	38, 231, 125
1940	39, 905, 033	1, 628, 477	41, 533, 510
1941	49, 020, 190	2, 537, 306	51, 557, 496
1942	67, 334, 355	4, 589, 767	71, 924, 122
1943	103, 485, 392	16, 694, 664	120, 180, 056

It is expected that during the fiscal year 1944 over 2,000,000,000 pieces of penalty mail will be handled by the Post Office Department. As can be seen from the above table the number of pieces of penalty mail originating in the departments and agencies has more than tripled since 1934. The Budget Bureau estimates that the cost to the Post Office Department of handling penalty mail in 1940 was $13,000,000, and that the cost will be over $30,000,000 in 1943. The war activities of the Government have been responsible for a large portion of the increase in penalty mail over the past 3 years. The following table shows the number of pieces of penalty mail for which certain war activities have been responsible during the fiscal year 1943.

TABLE II [1]

Activity	Pieces of penalty mail
Selective Service	222, 000, 000
Allotments to dependents and bonds mailed (armed forces)	80, 000, 000
War Savings bonds	75, 000, 000
War Production Board (forms and questionnaires)	600, 000, 000
Other war agencies (forms and questionnaires)	14, 000, 000
Invoices and disbursements (armed forces)	19, 000, 000
Tax forms and invoices	234, 000, 000
Treasury disbursements	44, 000, 000
Total	1, 288, 000, 000

[1] Budget Bureau figures.

Thus 1,280,000,000 pieces, or about 60 percent, of the approximate 2,000,000,000 pieces of penalty mail reported by the Post Office Department are directly connected with war activities. The remainder of the penalty mail, approximately 40 percent or about 800,000,000 pieces, is the result of a continuation of normal peacetime nonwar Federal activities. Since this 40 percent of the current total nearly equals the total of all penalty mail in 1940, it is clear that the conversion from peacetime to war activities in the Federal Government has not had its counterpart in the field of mail originating in the departments and agencies of the Federal Government.

Methods of control

Testimony adduced at the hearings, and facts uncovered during the investigation, reveal that the problem of the excessive use of the penalty mailing privileges must be attacked from two directions. First, it is necessary to curtail the printing and processing of Government publications, forms, and questionnaires; particularly those not directly concerned with war activities of which there are still too many. Second, it is necessary to provide a better control over the procedures used in sending that penalty mail which is deemed to be absolutely necessary. In commenting on this the Postmaster General made the following statement:

"No doubt governmental departments and agencies generally consider all their penalty mailings to be essential and also no doubt the cost to them is a factor which they consider, but the important items of cost, namely, that of transportation, handling and delivery, are ones with which they are not concerned, since these items are not borne by them. It might well be that if they were charged with this element of cost it would affect materially the decision as to essentiality of the material to be distributed."

On February 11, 1943, the committee issued a report on the number of forms and questionnaires issued by the Federal Government to the public (S. Doc. No. 4, 78th Cong.), and recommended that immediate steps be taken by the Bureau of the Budget to curtail their use to the greatest extent possible. Some progress has been made along this line through a more careful review of all Government forms, questionnaires, publications, and periodicals. In this connection the Director of the Bureau of the Budget stated the following:

"There is evidence of control and administrative examination of mailing lists in some of the agencies. Care is exercised in many agences to subdivide the lists as far as possible to enable the agencies to make a finer selection of material to be distributed. In most agencies names are being placed on lists only upon direct request; the agencies report that lists are being circularized periodically and that the names of all persons not expressing a desire to remain on the list are usually removed. The frequency of circulation varies from once every 6 months to once each year. In several departments, the control and actual maintenance of mailing lists have been placed in 1 unit, while in others they are operated by the several bureaus. All departments and agencies report that substantial reductions have been made in the number of names on the lists. For example, in the Office of War Information, 61 lists containing 22,000 names were eliminated, and other lists involving 34,000 names were reduced to 27,000. In spite of these improvements in the control over mailing lists, the Director of the Budget is of the opinion that a more complete control can and should be established."

However, from testimony at the hearings it was revealed that the contents of only a very small percentage of the 2,000,000,000 pieces of penalty mail are subject to the review of the Bureau of the Budget. For example, there is the great amount of official correspondence and myraid of administrative forms and publications which emanate from the various Government departments and agencies from both their central and field offices.

The committee finds that the departments and agencies do not exercise sufficient care to make certain that only essential material is sent through the mails. The Director of the Bureau of the Budget states:

"The principal control over the volume of penalty mail is being exercised through the supervision of the printing and processing of materials going into the mails, but there is room for further improvement in these practices."

The committee has found that several departments and agencies have established various methods of control over material sent through the mails, whereas many have not. The committee advocates that all departments and agencies of the Government establish adequate central controls over the distribution of all material sent through the mails. Further, each department and agency should report semiannually to the Budget Bureau and the Congress the titles and number of all their circulars, pamphlets, posters, periodicals, and other publications sent to the public.

Bulk shipments of undated matter and material which may be shipped by freight, express, or truck to field distribution points should never be sent under the penalty mailing privileges.

Seventy-pound weight limit in Washington, D. C.; 4-pound weight limit outside Washington, D. C.

Present postal regulations prescribe a 70-pound penalty mail weight limit at Washington, D. C., and a 4-pound limit in the field. In the past this difference has encouraged certain departments and agencies to send material from the field by common carrier to their Washington, D. C., offices for reshipment via penalty mail under the larger 70-pound limit. However, the committee has been notified that this practice has been discontinued to some extent. Because of the decentralization of many Federal activities to the field the distinction between the 70- and 4-pound weight limit serves no useful purpose today, and should no longer be made. All departments and agencies, except the War and Navy Departments, the Selective Service System, and the Treasury Department, should be restricted to a 4-pound penalty mail weight limit both in Washington, D. C., and in the field, and should be required to pay postage to the Post Office Department for official mail weighing in excess of 4 pounds, or be required to ship the material by common carrier, freight or express—whichever is the most economical. To this end, the Postal Laws and Regulations might well be revised to place a universal weight limit of 4 pounds on all penalty mail, with the exceptions noted above, until such time as the committee's first recommendation is carried into effect.

H. R. 2001—A bill to require departments, agencies, and independent establishments in the executive branch of the Government to pay postage on official mail matter

During the course of the investigation the committee received many suggestions on how to reduce the excessive amounts of penalty mail. The most worth while of these is H. R. 2001, a bill introduced by Congressman THOMAS G. BURCH of Virginia, chairman of the House Committee on the Post Office and Post Roads, which provides that all departments and agencies shall be required to pay the full rate of postage from their appropriations for their official use of Government mails. The penalty-mailing privileges would be abolished as such, and would be replaced by special stamps and stamped envelopes proposed by the Postmaster General, and by the use of permit numbers and metering machines under the supervision of the Post Office Department. This would necessitate a specific appropriation by Congress to each department and agency for the expense incurred in using the mails. Thus, in providing a greater control over the use of the mails, there is no question but that certain advantages would accrue to the Government. These are:

(1) Less penalty mail would be sent by the departments and agencies, and the heavier material would be sent via the less expensive means of carrier, express, or freight.

(2) The more effective control over penalty mail would result in economies.

(3) Since a specific allocation of funds would be made to each department and agency for the payment of postage, the administrators in the departments and agencies would be compelled to establish effective operational controls over the distribution of printed and processed materials to keep within the limits of funds allowed for this purpose.

However, according to the departments and agencies, there would be certain disadvantages in requiring them to pay postage. These are:

(1) Additional personnel would be required to maintain the necessary records and provide for safekeeping of accountable property.

(2) Simplified procedures which now exist for handling bulk mailings, established by cooperation between the Post Office Department and the agencies, would be impractical.

(3) Postage meters, scales, and other facilities would require the use of critical war materials.

The committee finds that the advantages of H. R. 2001 far outweigh the disadvantages. The committee is convinced that there is an excessive nonessential use of the penalty mailing privileges by the departments and agencies, and that the passage of legislation which would serve to reduce this use would be a step toward more efficient management and control in the Federal Government. However, the committee believes that during wartime exceptions should be granted for the following agencies: War Department, Navy Department, Treasury Department, and the Selective Service System.

In addition, the committee believes that were more effective controls exercised by the departments and agencies over the publication and processing of materials to be sent through the mails better results would be obtained.

Conclusions

1. The committee finds that there is a need for more adequate records concerning the volume and methods of shipment of penalty mail both from Washington and the field. Although certain agencies had some reports on the volume of penalty mail of their agencies, in most cases whenever reports were available they were inadequate.

2. The committee finds that under present conditions the Post Office Department makes contracts for the supplying of penalty envelopes for all Government departments and agencies. It will, for instance, make a contract based on supplying a hundred thousand penalty envelopes of a certain size. There is nothing, however, to prevent the direct purchase of millions of these envelopes by a department or agency, and such purchases are now made. Any department or agency also may print or cause to be printed its own penalty labels, or to affix penalty indicia on mailable matter.

3. The committee finds that under existing procedures it is possible for an agency to place an order directly with a contractor for penalty mail envelopes far in excess of the quantity for which the contract was originally negotiated. Such action often results in the Government paying much higher unit prices than would have been necessary if the contract had originally been negotiated for the larger quantity by a central purchasing agency.

4. The committee finds that there exists an illogical weight distinction between penalty mail originating in Washington, D. C., and elsewhere, and that this weight distinction has resulted in large shipments of penalty mail from the field to Washington, D. C., in order to take advantage of the higher 70-pound limit at Washington, D. C.

5. The committee finds that no record is now being maintained to show the rapidly increasing volume of circular publications, posters, etc., mailed without being enclosed in penalty envelopes, the penalty indicia merely being printed, mimeographed, or otherwise placed directly on the mailing pieces.

Recommendations

The committee recommends that the penalty-mail privileges of the departments and agencies of the Federal Government be abolished as such, and that the Congress enact legislation which would provide that the departments and agencies reimburse the Post Office Department at regular postage rates, or upon a cost-ascertainment basis, from their regular appropriations, for their use of the mails. However, for the duration of the present war only, exceptions should be made for the following departments and agencies: War Department, Navy Department, Treasury Department, and the Selective Service System.

Between now and the time the above recommendation is executed, the committee recommends:

1. That the privilege of sending penalty mail weighing in excess of 4 pounds free of postage from Washington, D. C., or elsewhere, be abolished, and that the Postal Laws and Regulations be revised to restrict the shipment by mail of a maximum of 4 pounds of a particular item of penalty mail to a single addressee in any one day from any part of the United States. However, exceptions should be made for the following departments and agencies: Treasury Department, War Department, Navy Department, and the Selective Service System.

2. That each department and agency be encouraged, under rules and regulations promulgated by the Bureau of the Budget and Post Office Department, to establish a recording procedure, as simple as possible, that will enable the Federal Government to have more accurate information regarding the use of penalty mail.

3. That the Post Office Department be empowered to revise its present contracting procedure for the purchase of penalty envelopes, labels, post cards, or penalty indicia so that the Postmaster General shall be the only Government contracting agent for penalty envelopes, labels, post cards, or other penalty indicia.

4. That the Post Office Department shall report quarterly to the Congress and the Bureau of the Budget the number of all such penalty envelopes purchased, and also the number of labels or other indicia used by the various departments and agencies or bureaus or subdivisions thereof.

5. That the Post Office Department shall determine the volume and established cost of handling by the Postal Service of penalty mail by classes, mailed by each department and agency of the Government, which shall be reported quarterly to the Congress and the Bureau of the Budget.

6. That the Post Office Department cost-ascertainment procedure be amplified to determine the volume of penalty mail by departments and agencies; whereas now it is determined by the Government as a whole.

7. That the indicia showing the penalty mail privilege be placed on official mail matter by Government departments and agencies only under such rules as the Postmaster General may prescribe, and that the amount of mailings under such indicia be included in the quarterly reports to Congress and the Bureau of the Budget on penalty mailings.

8. That the Bureau of the Budget shall report semiannually to the Congress the titles and number of all their pamphlets, posters, periodicals, and other publications sent to the public by the Federal Government.

BUREAU OF THE BUDGET,
Washington, D. C., January 21, 1944.

Hon. HARRY F. BYRD,
Chairman, Joint Committee on Reduction of Nonessential Federal Expenditures, Senate Office Building, Washington, D. C.

MY DEAR SENATOR BYRD: I have reviewed the draft of the committee's report on the subject of penalty mail and I am generally in agreement with the conclusions and recommendations. However, I have reservations as to the desirability of removing the penalty mailing privilege from departments and agencies prior to the cessation of the present war.

Whether the requirement that departments and agencies pay postage will involve additional administrative costs and will require additional manpower is a question that has not been resolved. It seems to me that it should be answered before any final decision is made on removing the penalty mailing privilege.

Very truly yours,

HAROLD D. SMITH,
Director.

JANUARY 21, 1944.

Hon. HARRY F. BYRD,
Chairman, Committee on Reduction of Nonessential Federal Expenditures, Congress of the United States, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to the proposed additional report of the Joint Committee on Reduction of Nonessential Federal Expenditures with respect to penalty mail, which you forwarded with your letter of January 13, 1944, for comment, suggestions, and approval.

There are undoubtedly some classes of penalty mail which could be curtailed or entirely eliminated without adversely affecting the Government's operations. With respect to mail of this character I am in accord with the committee's views that some savings could be realized through the establishment of more effective controls.

However, I am not prepared at this time, without detailed analysis and study of all the factors involved, to agree with the recommendation that the penalty mail privileges of the departments and agencies of the Federal Government be abolished, as such, and that the Congress enact legislation which would provide that the departments and agencies reimburse the Post Office Department at regular postage rates or upon a cost-ascertainment basis. It is conceivable that additional costs might be imposed which would far outweigh any economies that could be achieved by reduced mailings. It would seem, therefore, that before any far-reaching change of this character is effected, there should be a very thorough investigation made to determine whether such change would in fact result in economies to the Government as a whole, and for this reason I believe an opportunity should be accorded the several departments and agencies to submit their views on the proposal.

I will be glad if you will include these comments with the committee report.

Very truly yours,

H. MORGENTHAU, JR.,
Secretary of the Treasury.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the VICE PRESIDENT:

A petition of sundry citizens of Oshkosh, Wis., praying for the enactment of legislation providing for food subsidies; ordered to lie on the table.

By Mr. GREEN:

A resolution of the General Assembly of the State of Rhode Island; to the Committee on Education and Labor:

"Resolution 22

"Resolution urging the Senators and Representatives from Rhode Island in the Congress of the United States to bring their influence to bear that action may be taken by the Federal housing authorities to grant some form of priority to the immediate families of men and women in the service of the armed forces endeavoring to find residence in Rhode Island in the quarters of the housing projects developed by the Federal housing authorities in this State

"*Resolved*, That the Senators and Representatives from Rhode Island in the Congress of the United States be, and they are hereby, earnestly urged to bring their influence to bear and to work in an effort that action may be taken by the Federal housing authorities to grant some form of priority to

the immediate families of men and women in the service of the armed forces endeavoring to find residence in Rhode Island in the quarters of the housing projects developed by the Federal housing authorities in this State; and be it further

"*Resolved*, That duly certified copies of this resolution be transmitted by the secretary of state to the Senators and Representatives from Rhode Island in the Congress of the United States."

REPORT OF SPECIAL COMMITTEE ON FOREIGN OIL POLICY TO PETROLEUM INDUSTRY WAR COUNCIL

Mr. MOORE. Mr. President, I ask unanimous consent to have printed in the RECORD and appropriately referred a report of the Special Committee on Foreign Oil Policy to the Petroleum Industry War Council, dated January 10, 1944, together with a resolution adopted by the committee on December 9, 1943.

There being no objection, the report and resolution were referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

REPORT OF SPECIAL COMMITTEE ON FOREIGN OIL POLICY TO THE PETROLEUM INDUSTRY WAR COUNCIL, JANUARY 10, 1944

The committee has carefully considered the problem of foreign oil developments and has reviewed the document entitled "A Foreign Oil Policy for the United States," prepared by the Foreign Operations Committee, and recommends to the Petroleum Industry War Council the approval of the following report, viz:

1. That the oil resources of the world can best be developed by private enterprise under a free economy.

2. That a foreign oil policy should be established at once by the United States.

3. That such a policy should involve strong support by our Government to our nationals who are willing and able to play an important role in the development of the oil resources of the world.

4. That our Government should not participate either directly or indirectly in the ownership or operation of foreign properties.

5. That the report of the Foreign Operations Committee is a sound and constructive presentation of the opinions held by this committee.

That report outlines the factors that create an international oil problem; emphasizes the special interest of the United States in oil; presents in some detail the principles that should underlie a sound foreign oil policy; and outlines those aspects of the problem that require immediate attention as well as those which should be dealt with under a long-term policy. The report vigorously presents the advantages of private enterprise in foreign oil development, points to the great achievements already made by American nationals in this field, and gives convincing arguments to show that direct or indirect participation by the United States Government in foreign oil developments will hamper the diligent and efficient prosecution of such developments, will be a long step away from democratic procedure, and will lead to endless political and international complications.

The committee finds itself in accord with the substance of the report and endorses its findings as expressed in sections I to V, inclusive.

With regard to section VI which gives the design of a proposed international oil compact, the committee has not completed its study and expresses no opinion at this time. It feels that no immediate action on this particular point is required, as the nature and scope of this compact will in any event postpone its implementation until the world is again at peace.

The committee urges that the report of the Foreign Operations Committee be given the widest publicity both within the oil industry and among citizens in general. These matters concern not only the oil industry but the entire Nation.

Adopted January 12, 1944.

PETROLEUM INDUSTRY WAR COUNCIL.

REPORT OF SPECIAL COMMITTEE ON FOREIGN OIL POLICY TO THE PETROLEUM INDUSTRY WAR COUNCIL, DECEMBER 9, 1943

Your committee has examined the report of the Foreign Operations Committee of the Petroleum Administration for War and endorses the policies set forth therein, but desires more time for study and a specific recommendation on foreign policy which will be presented to the Petroleum Industry War Council at its January meeting.

The committee recommends to the council the adoption of the following resolution:

"Whereas in recognition of the fact that private capital and competitive enterprise have developed and will continue to develop vast foreign oil reserves as well as a great domestic oil industry which constitute a great and indispensable bulwark for national defense: Be it

"*Resolved*, That the Petroleum Industry War Council recommends to the Petroleum Administrator for War that the immediate war necessity and the continuing necessity for the acquisition, exploration, and development of foreign oil reserves by our nationals makes it imperative that our nationals be afforded all possible diplomatic protection in foreign lands; be it further

"*Resolved*, That a foreign oil policy of the United States should have the support of the American people as well as the support of the American oil industry. It should extend to our nationals, operating in foreign countries, the encouragement and effective assistance of the American Government in their foreign oil exploration, development, or operation; be it further

"*Resolved*, That the United States Government should under no circumstances acquire title or ownership or directly or indirectly engage in foreign oil exploration, development, or operation."

Adopted December 9, 1943.

PETROLEUM INDUSTRY WAR COUNCIL.

FOREIGN OIL POLICY OF THE GOVERNMENT—RESOLUTION OF PETROLEUM INDUSTRY WAR COUNCIL

Mr. MOORE. Mr. President, I ask unanimous consent to present a resolution adopted by the Petroleum Industry War Council and to have it printed in the RECORD and properly referred.

There being no objection, the resolution was received, referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

Whereas on December 11, 1943, the board of directors of the Independent Petroleum Association of America adopted the following resolution:

"Whereas private capital, individual initiative, and free competitive enterprise have achieved the highest degree of development in exploration, production, refining, marketing, and transportation in the oil industry, and in the advancement of the associated sciences, resulting in constantly improving quality, and in reasonable prices to the consuming public in the United States; and

"Whereas the helpful functions of government are recognized in the promotion of conservation, through those governments having jurisdiction, in the prevention of waste, and in the scientific ascertainment of consumptive demand; and

"Whereas in the foreign field, private enterprise has extended the sphere of American industrial power and prestige in the discovery and development of oil reserves with substantial benefits to the United States Government, and to its nationals, without the involvement of the United States Government as such, and without creating the hostility of friendly nations through the attempted impairment of their sovereignty by the intervention of the United States Government in their internal affairs; and

"Whereas Government control, whether effectuated through Government monopoly, Government expropriation, or through the nationalization of petroleum has hampered, obstructed, and restricted petroleum industrial development in other countries as compared with, and measured by the achievements of private capital, private initiative, and private management in the United States; and

"Whereas foreign explorations, production, transportation, and refining of petroleum has been dependent, to the greatest extent, upon the advances mad by the petroleum industry in the United States in petroleum production and refining technology, and in the improvement made in the art of oil finding, and in the use of American manufactured equipment and supplies; and

"Whereas no major development in the history of the oil industry throughout the world has resulted from purely governmental activity, comparable to the progress made in the industry by private capital and private enterprise; and

"Whereas national defense and national welfare and friendliness between nations are best promoted and served by the extensive and efficient development of petroleum through the media of private capital, private initiative, and private management in a free competitive system susceptible of quick mobilization for national service; and

"Whereas a virile, dynamic domestic oil industry in the United States, supported by the legitimate diplomatic aid of the Government of the United States to its nationals engaged in foreign operations under established international law constitutes the most indispensable and effective bulwark of national defense: Therefore be it

"*Resolved by the Independent Petroleum Association of America*, That—

"(1) The Government of the United States of America be, and it is hereby petitioned, to establish and maintain a consistent foreign oil policy—

"(a) by giving necessary and legitimate diplomatic support, under the principles of international law, to its nationals engaged in foreign oil operations; and

"(b) by fostering the private enterprise of its nationals in foreign exploration, production, transportation, refining, and marketing of petroleum and its products; and

"(c) by the establishment of a cardinal principle in such foreign oil policy of the Government of the United States that the Government itself will not directly or indirectly engage in foreign oil ownership, exploration, development, or operation, either in its sovereign or proprietary capacity, or through the media of ownership in corporations or other agencies engaged in the petroleum industry."

Whereas the Special Committee on Foreign Oil Policy of the Petroleum Industry War Council are in full accord with the principles as set forth in this resolution as evidenced by its report to the Council, dated January 10, 1944: Be it

Resolved, That the Petroleum Industry War Council approves the declaration of principles expressed in the foregoing resolution.

Adopted January 12, 1944.

PETROLEUM INDUSTRY WAR COUNCIL.

RESOLUTION OF MERIDEN CENTRAL LABOR UNION—NATIONAL HOME FOR JEWS IN PALESTINE

Mr. MALONEY. Mr. President, I ask unanimous consent that there may be in-

serted in the body of the RECORD, and appropriately referred, a letter which I have received from Mr. Frederick L. Neebe, secretary, the Meriden Central Labor Union, Meriden, Conn., embodying a resolution adopted at a meeting of that organization held on December 3, 1943, urging "that the Balfour Declaration be fully implemented" and "that the right of the Jewish people to a national home in Palestine be reaffirmed."

There being no objection, the letter embodying a resolution was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

THE MERIDEN CENTRAL LABOR UNION,
Meriden, Conn., January 11, 1944.

Hon. FRANCIS MALONEY,
Senate Office Building, Washington, D. C.

DEAR SENATOR MALONEY: By instruction of the Meriden Central Labor Union, I am sending you herewith copy of resolution adopted at the meeting held on December 3, 1943. This resolution follows along the lines adopted by the convention of the American Federation of Labor at Boston, Mass., on October 8, 1943:

"Whereas newspaper dispatches from Europe and the documented reports of the State Department tell a horrible story of the atrocities to which the conquered peoples of Europe have been subjected. In Czechoslovakia the destruction of Lidice was but a symbol of the calculated plans of the Nazis to break the spirit of an entire nation. In Poland the best minds of the country, the leading spirits of all classes, the leaders of the labor movement, have been executed as part of the planned Nazi policy to leave the Poles a people without leadership and without direction. In Holland the Nazis loosed their bombs on Rotterdam after the city had surrendered, and thousands of women and children were butchered to strike fear into the hearts of their fighting men. Today Nazi soldiers are bayoneting Italian civilians on the streets of Italian cities to satisfy their lust for revenge against their former ally; and

"Whereas horror piles upon horror. Terror is the lot of all; and

"Whereas it has been reserved for the Jewish population of occupied Europe to be marked for mass extermination. History knows no parallel to the bestial cruelties by which the Nazis are carrying out their resolve to destroy the entire people. Herded into walled ghettos, they are denied food and drink until life departs from their bodies. Crowded into specially constructed gas chambers, they are asphyxiated to death by their Nazi executioners. Hunted like animals through the streets, they are shot down or clubbed to death when their torturers have tired of their sport; and

"Whereas the world has seen more than 3,000,000 Jews in occupied Europe starved, hunted, gassed, clubbed, and machine-gunned. Today there remains but a tiny remnant of an ancient people in lands where their fathers and forefathers have lived for centuries; and

"Whereas the conscience of the civilized world recoils with horror at the fiendish crimes perpetrated by the Nazis on a defenseless people; and

"Whereas civilized humanity owes it to its own conscience to undo, so far as can be undone, the inhuman plans of the Nazi barbarians and to save those who can still be saved from the fate that has been suffered by 3,000,000 of their people; and

"Whereas, to this end, the American Federation of Labor calls upon the United Nations to take immediate steps to rescue the remaining Jews of occupied Europe. We call upon the United Nations, and our own country, to provide for them temporary havens in their territories. We urge that where immigration restrictions impede the work of rescue they be temporarily lifted, and that in our own country quotas be enlarged where necessary so that those Jews who can still be snatched from the bloody hands of the Nazis may find a temporary resting place until the war is over, when they may once more take up their abode in their native lands; and

"Whereas we urge that our Government in the meanwhile, together with the governments of our allies, warn the men by whose orders these inhuman deeds have been perpetrated that they will be treated as outlaws from humanity, and outcasts from the world; and that they will be punished for their crimes against the helpless and the downtrodden; and

"Whereas the Nazis, as part of their plan for world domination, have introduced into Europe a calculated chaos. They have uprooted millions of Frenchmen, Norwegians, Hollanders, Belgians, Russians, and Poles from their homeland. They have looted everything movable in every land where they have set their heel. Victory will not be complete until the monstrous skein of planned chaos is unraveled. The United Nations, as the trustees for the conscience of civilization, must resolve that these millions shall return to their homes, shall recover their property, shall be able once more as free men to live on the fruits of their toil. And precisely because the Nazis spent their greatest efforts on the uprooting and extermination of the Jews above all other peoples, the United Nations must make a special effort to foil the Nazi plans, and enable the Jews, who have suffered most at the hands of the Nazis, to return to their former residences and occupations, with all their political, economic, and civil rights restored; and

"Whereas when all this has been done, when charity and kindness and human decency have bound up the wounds left by our enemies, there will still be those among the Jews who will have no home, no nation, to which they can return. The American Federation of Labor has in the past expressed its profound sympathy with the national aspirations of the Jewish people. And today, more than ever, the American Federation of Labor calls upon the world to fulfill its long-standing pledge to the Jewish people by enabling them to build up their own homeland, and by opening wide the doors of Palestine to the victims of the Nazi terror; and

"Whereas the American Federation of Labor has observed with admiration the reconstruction of the Jewish homeland since the Balfour Declaration recognizing the special claim of the Jewish people to the soil of Palestine. It has watched with pride the great role played in the upbuilding of Palestine by the forces of organized labor there; and

"Whereas the world is fortunate that there exists a Jewish homeland, whose sons stood at the gateway of the East and held it against the Nazi war machine until the full forces of the United Nations could be brought to bear to expel the Germans from Asia and Africa. It is fortunate that there will exist tomorrow a Jewish commonwealth to which may turn those victims of Nazi oppression who have no other homeland: Therefore, be it

"*Resolved*, That the American Federation of Labor urges upon our Government and upon the Government of Great Britain, which has a special responsibility in the matter, that the Balfour Declaration be fully implemented, that the right of the Jewish people to a national home in Palestine be reaffirmed, and that every aid and encouragement be given to enable the victims of Nazi persecution to settle upon their ancient soil and make it bloom once more as it did in the days of the prophets."

FREDERICK L. NEEBE,
Secretary, the Meriden Central Labor Union.

WHAT PRICE GOOD NEIGHBORS?—EDITORIAL FROM THE PHILADELPHIA INQUIRER

Mr. DAVIS. Mr. President, I ask unanimous consent to have printed in the RECORD and appropriately referred an editorial entitled "What Price Good Neighbors?" from the Philadelphia Inquirer of this morning.

There being no objection, the editorial was referred to the Committee on Appropriations and ordered to be printed in the RECORD, as follows:

WHAT PRICE GOOD NEIGHBORS?

It's about time that more authoritative answer than those of Vice President WALLACE and Senator MCKELLAR were made to Senator BUTLER's charges of extravagant spending by the United States Government in Latin America.

If Senator BUTLER is anywhere near right in his reiterated declaration that our expenditures, commitments, and extensions of credit south of the border for a 3-year period amount to close to $6,000,000,000, most American taxpayers will demand to know what, in the name of all that's sensible, the long-term cost of the good-neighbor policy is going to be.

The worst of it is that, with a suspiciously pro-Axis Argentine Government apparently seeking to form a strong anti-United States bloc in South America, it looks as if the good-neighbor policy is being taken for a ride at this country's expense.

Yet, when Senator BUTLER, a persistent Republican from Nebraska, first aired his alleged findings of costly boondoggling and waste in South America the loudest voice heard in reply was that of Vice President WALLACE, who almost tearfully apologized to our Latin American friends for the Nebraskan's rude aspersions.

The next loudest voice was that of Tennessee's MCKELLAR, who insisted that total expenditures in Latin America were only $2,207,000,000, of which $1,400,000,000 was for war purchases by the United States. Nelson Rockefeller, Inter-American Affairs Coordinator, meantime had put the figure at less than $600,000,000.

Now Senator BUTLER has submitted to the Senate an itemized account to back up his accusation that in the last 3 years the United States Government has poured at least $5,733,953,543 into Central and South America, and Senator MCKELLAR has returned to the fray to declaim that BUTLER's charges tend to damage the good-neighbor policy.

Who is right in all this? How much have we spent and promised to spend in Latin America? What's our money being spent for down there? What's it doing to the good-neighbor policy? Just what, precisely, is the condition of the good-neighbor policy now?

These are questions which a good many Americans would like to have answered, not by angry Senators hurling charges and countercharges across the Senate floor, but by cool, unimpassioned investigators.

If the American Government has been trying to buy Latin America's undying friendship by tossing money around like nobody's business, our people should know about it.

If, as has been asserted by some, we have spent stupendous sums on thousands of mechanical sewing machines for natives who prefer to sew with a shark's tooth; on stocking Venezuelan lakes with game fish; on buying farms for deserving folk in Honduras, and on other heart-warming but not imperative projects, American taxpayers ought to be given the down-to-earth facts.

Senator BUTLER's provocative revelations are the result of a personal inquiry made during a tour taken at his own expense. Various congressional agencies have made

stabs at checking his data, but to little purpose. Why hasn't there been a formal congressional investigation of the charges?

Certainly BUTLER is right in his blunt assertion that "money will not buy good will" and that we ought to call a halt on extravagance and develop a policy "that will be sound good neighbor."

Before the good-neighbor policy is shot to pieces by pro-Axis factions in South America who don't appreciate Uncle Sam's loose-fingered ways with money, Congress should order a thorough, searching analysis of Senator BUTLER'S accusations, with no account books or witnesses barred.

NATIONAL WAR SERVICE

Mr. DAVIS. Mr. President, the Senate Military Affairs Committee is now holding hearings on the matter of a national service act, the enactment of which was requested by the President in his recent message to the Congress.

A recommendation of this nature is indeed a matter of serious concern to all the American people, and I know that the members of the Military Affairs Committee are conscientiously seeking all valid and worth-while information pertinent to that subject, in order that they might adopt a course supported by the vast majority of the American people. I am therefore requesting, Mr. President, that an editorial which appeared in the Pittsburgh Post-Gazette under date of January 21 entitled "The Free Labor of Freemen" be printed at this point in the RECORD as a part of my remarks, and that it be referred to the Military Affairs Committee for their consideration and study. The Post-Gazette is a reliable and sound organ of America's free press, and I feel that this editorial reflects substantially the popular feeling in the State of Pennsylvania with respect to the pending legislation.

I might add that, judging from the considerable quantity of mail which has come to my office on this subject, a large number of people are opposed to the enactment of any legislation of this type at this late date.

In addition, Mr. President, while much has been said to the effect that the servicemen themselves favor the enactment of this legislation, the mail which I have received directly or indirectly from men in the armed forces does not bear out this contention.

Certainly the soldiers on the fighting fronts are definitely opposed to work stoppages and strikes in American war industries, for they feel, and rightly so, that they should have the full help and support of every person here on the home front. I have long maintained that there is no possible justification for a strike or a work stoppage during these times of crisis, and I believe, Mr. President, that the administration has sufficient authority at the present time to prevent such disturbances, if that authority were used properly and on time. I am convinced that the vast majority of the American people are doing their utmost to hasten the day of our total victory and the early return of our sons and brothers from the fighting fronts of the world, and I am convinced that the enactment of legislation of this type would not serve effectively to hasten that day.

The VICE PRESIDENT. Is there objection to the request of the Senator from Pennsylvania?

There being no objection, the editorial was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

THE FREE LABOR OF FREEMEN

In his testimony before the Senate Military Affairs Committee, Secretary of War Stimson presented three arguments for a national service law, unpopularly called a Draft-Labor Act. He said that soldiers overseas are "bitterly resentful" of strikes and labor unrest, that the war machine is in danger of missing the 1944 production goals because of manpower shortages, and that the public favors such a measure. None of the arguments seems to have impressed Congress, which he said needs impressing.

His first and third arguments are not directly related to the second nor practically pertinent in themselves. Granted that our soldiers are bitterly resentful of strikes, just as are most people at home, do they have any clearer idea of how a National Service Act would work than the rest of us, and would they saddle the whole Nation with further regimentation simply to get even with those unions which violated their no-strike pledge? Making the doubtful assumption that the public favors such a measure, how many people know to what extent a sweeping law they don't understand can solve economic problems they don't understand?

What soldiers think and what the public thinks about wartime strikes has little to do with the shortage of manpower in aircraft, coal-mining, lumbering, and ball-bearing plants. If the primary purpose of a National Service Act is to fill these gaps, why didn't President Roosevelt say so when he proposed the law, and why doesn't Mr. Stimson explain which workers would be drafted for these jobs and how their sacrifice would be equalized, both with the men in the armed services and with other workers—the bulk of them, according to the President's own words—left in their old jobs at the highest wages in history?

Had a National Service Act been proposed 2 years ago, or even 1 year ago, as we have said before, we believe the American people would have accepted it gladly, because they did and they do want to pull their own individual weight in this war. Brought forward at this time, however—after mine strikes and steel strikes and the threat of a railroad strike—it looks too much like another stopgap remedy for the labor troubles Mr. Roosevelt brought on himself, and the country, by trying to play cagey politics with the war effort. That is precisely why the public, having watched his stabilizers consistently give in to the strikers' demands, questions the advisability of giving the President greater authority to use or not use at his discretion in an election year.

As for Mr. Stimson's fear that the home front is "on the point of going sour" with "a system of anarchy" taking form, may we point out that in this war for human freedom free men have proved its worth in peace and war.

There have been strikes, inexcusable strikes, which we have condemned as severely as anybody else. In spite of them, our Army is the best equipped in the world, and our allies are better equipped than they otherwise would be, because the free workers of America, under a system of relatively free enterprise, have poured a steady stream of ships, planes, tanks, guns, food, and supplies across the seas. Before tampering with that system still further in an attempt to correct its strike defect, the American people, as loyal as ever to the democratic principles they are fighting and working to save, will have to be convinced that any other system could work as well.

Certainly they will hesitate to give arbitrary power over their lives to administrators whose reason for asking it is that they can't trust the people.

REPORT OF COMMITTEE ON EDUCATION AND LABOR

Mr. THOMAS of Utah, from the Committee on Education and Labor, to which was referred the bill (S. 1633), to amend the act entitled "An act to provide for the training of nurses for the armed forces, governmental and civilian hospitals, health agencies, and war industries, through grants to institutions providing such training, and for other purposes," approved June 15, 1943, so as to provide for the full participation of institutions of the United States in the program for the training of nurses, and for other purposes, reported it without amendment and submitted a report (No. 633) thereon.

WARTIME METHOD OF VOTING BY MEMBERS OF ARMED FORCES—REPORT OF PRIVILEGES AND ELECTIONS COMMITTEE

Mr. GREEN. Mr. President, by direction of the Committee on Privileges and Elections, as the result of the meeting held yesterday afternoon, I have been instructed by a vote of 12 to 2 to report back from that committee, with an amendment, the bill (S. 1612) to amend the act of September 16, 1942, which provided a method of voting in time of war by members of the land and naval forces absent from the place of their residence, and for other purposes, and to submit a report (No. 632) thereon.

The VICE PRESIDENT. Without objection, the report will be received and the bill will be placed on the calendar.

REPORTS ON DISPOSITION OF EXECUTIVE PAPERS

Mr. BARKLEY, from the Joint Select Committee on the Disposition of Executive Papers, to which were referred for examination and recommendation three lists of records transmitted to the Senate by the Archivist of the United States that appeared to have no permanent value or historical interest, submitted reports thereon pursuant to law.

JOINT RESOLUTIONS INTRODUCED

Joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WHEELER:

S. J. Res. 109 (by request). Joint resolution extending the period for the acquisition by the Railroad Retirement Board of data needed in carrying out the provisions of the railroad retirement acts; to the Committee on Interstate Commerce.

(Mr. MOORE (for himself and Mr. BREWSTER) introduced S. J. Res. 110, which was referred to the Committee on Interstate Commerce, and appears under a separate heading.)

LIQUIDATION AND DISSOLUTION OF PETROLEUM RESERVES CORPORATION

Mr. MOORE. Mr. President, I ask unanimous consent, on behalf of the Senator from Maine [Mr. BREWSTER] and myself, to introduce a joint resolu-

tion. I believe from the character of the resolution that it might be referred either to the Committee on Interstate Commerce or the Committee on Foreign Relations.

The VICE PRESIDENT. Without objection, the joint resolution will be received and appropriately referred.

The joint resolution (S. J. Res. 110) to liquidate and dissolve Petroleum Reserves Corporation, a Government corporation, introduced by Mr. MOORE (for himself and Mr. BREWSTER), was read twice by its title and referred to the Committee on Interstate Commerce.

SERVICE MANUAL FOR THE USE OF VETERANS AND THEIR DEPENDENTS—REVISION AND REPRINT OF DOCUMENT

Mr. BONE submitted the following resolution (S. Res. 242), which was referred to the Committee on Printing:

Resolved, That Senate Document No. 96, Seventy-seventh Congress, first session, entitled "A Service Manual for the Use of Veterans and Their Dependents," be revised to date and reprinted with corrections, and that 5,000 additional copies be printed for the use of the Senate Document Room.

FULL EMPLOYMENT—ADDRESS BY THE VICE PRESIDENT

[Mr. GUFFEY asked and obtained leave to have printed in the RECORD an address on the subject Full Employment, delivered by the Vice President before a luncheon meeting of the Committee for Political Action of the C. I. O., at New York City, on January 15, 1944, which appears in the Appendix.]

FOREIGN POLICY—ADDRESS BY SENATOR WILEY

[Mr. WILEY asked and obtained leave to have printed in the RECORD an address on foreign policy, broadcast by him over Wisconsin radio networks, which appears in the Appendix.]

FINANCING SMALL BUSINESS AFTER THE WAR—ADDRESS BY SENATOR TAFT

[Mr. TAFT asked and obtained leave to have printed in the RECORD an address entitled "Financing Small Business After the War," delivered by him at the Boston City Club, Boston, Mass., January 14, 1944, which appears in the Appendix.]

THE FARM SITUATION

[Mr. TRUMAN asked and obtained leave to have printed in the RECORD a letter from W. A. Cochel, editor of the Weekly Kansas City Star and three editorials from that newspaper on the farm situation, which appear in the Appendix.]

VOTES FOR SOLDIERS

[Mr. TUNNELL asked and obtained leave to have printed in the RECORD an article entitled "Soldiers in Italy Ask Right to Vote," from the UE News of January 22, 1944, which appears in the Appendix.]

JOHN R. STEELMAN, DIRECTOR, UNITED STATES CONCILIATION SERVICE

[Mr. BANKHEAD asked and obtained leave to have printed in the RECORD an article by John Temple Graves, published in the Birmingham Age Herald of December 8, 1943, relating to the work of Dr. John R. Steelman, Director of the United States Conciliation Service, which appears in the Appendix.]

BILLION-DOLLAR WATCH DOG—ARTICLE FROM THE READER'S DIGEST

[Mr. HATCH asked and obtained leave to have printed in the RECORD an article entitled "Billion-Dollar Watch Dog," from the Reader's Digest of September 1943, which appears in the Appendix.]

EXCERPTS FROM EIGHTH ANNUAL REPORT OF THE SOCIAL SECURITY BOARD

Mr. WAGNER. Mr. President, I ask unanimous consent to have printed in the RECORD as a part of my remarks portions of the Eighth Annual Report of the Social Security Board, dealing with the all-important problems of health protection and unemployment insurance, as a part of a unified program of social security for the post-war period.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

HEALTH AND MEDICAL CARE

Our country may well take pride in its progress during the past half century in extending the average length of life and raising standards of physical well-being. We may be proud also of the Nation's total resources for the prevention and care of sickness—organized public health services, splendidly equipped hospitals, and skilled medical practitioners and technicians. In combination with the relatively high levels of living achieved by the American population as a whole, these resources have served to make the health and life of the average man more secure than that of his parents or grandparents. Failures, however, to assure healthful growth and development among even the generations now young are evident in many ways, among them the record of the first 3,000,000 men examined for selective service. Though these men were in the ages 21–36 and their average age was 26, half failed to meet the physical and mental requirements of the system for general military service, while about one-fourth could not qualify for even limited service. Of the 900,000 who were thus disqualified, at least 200,000 had defects which were considered easily remediable. Among a large group of 18- and 19-year-old registrants, about 25 percent were rejected on physical or mental grounds. Rejection rates reflected economic handicaps. Among boys classified as farmers, the rate was about 40 percent, and among emergency workers and the unemployed, nearly 38 percent, while for those classified in skilled occupations and professional and semiprofessional services, only about 20 percent were rejected for these reasons. Though standards for military service were more rigorous than those required in many civilian activities, prevalence of physical defects among this cross section of the young adult population has serious implications for individual and social security.

DIFFERENCES IN THE EXTENT OF HEALTH PROTECTION

Average achievements in health security have little meaning to a particular individual; what matters to him is his own chance to live a full life unhampered by sickness or incapacity. The average conceals the fact that in all parts of the country there are groups whose chances of survival are no greater than those which existed in the United States 60 years ago. Some places in the United States, especially rural areas, are almost without access to modern facilities to prevent and cure sickness.

Progress in improving health and longevity has come largely through organized measures for curbing or eradicating hazards of whole communities—that is, through public health and sanitary provisions to safeguard water and milk supplies and prevent or control communicable diseases such as typhoid fever, diphtheria, tuberculosis, and malaria. Sickness and death rates from causes such as these make it clear, however, that there still remains a tremendous weight of preventable or curable sickness and postponable death which could be lifted through the use of measures long since established as appropriate functions of public health and medical services.

In these as in other fields of public action, striking variations arise from differences in public and personal resources. A baby's chance to survive the first year of life, for example, was nearly three times as good in the best State in 1942 as it was in the State where the infant mortality rate was highest. The death rate from tuberculosis ranges, among the States, from 79.1 per 100,000 of population to 16.2, excluding States in which facilities for the care of that disease have attracted patients from other areas. While climatic and other differences enter into comparisons such as these, a major underlying factor is the discrepancy in the funds made available by States and localities to carry on widely accepted public-health functions needed to prevent and care for sickness within their borders. Recognition of this situation was made in the provision of Federal grants for public health and maternal and child health and welfare under the Social Security Act, administered, respectively, by the United States Public Health Service and the Federal Children's Bureau. At the end of nearly 8 years, however, these measures had not yet proved sufficient to remove the handicaps of wide geographic areas and certain groups in all areas.

Within localities, moreover, sickness varies according to income level. The chance for health, and even for survival, is least among the poor. The general death rate among boys and men of working age has been found to be nearly twice as high for unskilled laborers as for professional men or proprietors, managers, and officials. Wage earners in nonrelief families with annual incomes of less than $1,000 were found to have, on the average, nearly twice as many days of disability during a year as those in families with $3,000 or more. Families on relief reported nearly three times as many days of disability per person as were reported for persons in families with incomes of $3,000 or more. Children in relief families lost nearly a third more time from school or play because of illness than those in families with moderate or comfortable means. It is of little use to argue whether sickness and premature death are more often the cause or the result of poverty; in either case, it is necessary to stop the down-spiral likely to end in demoralization and dependency.

Public-health programs for the prevention and control of communicable diseases have wiped out or relegated to an unimportant place many ailments which once were leading causes of sickness and death. Success has been greatest in the acute ailments of childhood and youth. Increasing proportions of the babies born in the last half century or more have gained a chance to live to old age. Except for accidental injuries, the leading causes of death are now the slowly crippling diseases of middle age and old age, often ushered in by long periods of increasing disability. The attack on these forms of ill health cannot be made by mass methods, such as chlorinating a water supply to eradicate typhoid fever. To prevent and curb such causes of disability and death requires the highly individualized services of physicians, technicians, and laboratories. These services are necessarily expensive. They are, moreover, the forms of medical care for which American families typically pay, when they receive them, as individuals. The direction of progress in health security in the United States lies increasingly in insuring that all groups in the population

can get for the prevention and care of sickness whatever medical care they need, not only as members of communities but also as individuals.

COSTS OF MEDICAL SERVICES

The largest part of the Nation's total bill for health and medical care is paid directly by families. In 1942, government—or the population as a whole as taxpayers—paid about 20 percent of the total, exclusive of the cost of medical care for the armed forces. Philanthropy and industry combined accounted for probably not more than 5 percent of the total. About three-fourths of the total paid in a year comes directly from family pocketbooks, and of this sum a very large part is paid by the families which suffered serious illnesses. Serious sickness is likely to make inroads upon family resources through temporary or prolonged loss of earnings and increases in costs of food and household services, as well as in terms of medical bills. The major part of the support of measures for security in life and health in the United States thus falls fortuitously upon households when they are least able to pay for it. The care a family receives depends in considerable part upon its income. Despite all the public provisions for medical care and the care given through philanthropy and the unpaid services of physicians and others, low-income families receive, on the average, much less care than those in better circumstances, though their needs for care are greater.

From the standpoint of the family which suffers serious illness, adequate medical care must nearly always be expensive. For the country as a whole, costs are not such a problem. It is estimated that about $4,500,000,000 was spent in 1942 in the United States for medical care and public-health services. This was a very small fraction of the Nation's income. Among individual families the average outlay was relatively small, not more than 3, 4, or 5 percent of annual income. If 1942 followed the pattern of an earlier prosperous period for which detailed studies are available, low-income families, which have the greatest need for care and receive the least, spent a somewhat larger proportion of their annual income for medical services than the well-to-do.

The problem of medical bills arises from the fact that they are unlike any other basic item in the family budget. No family can set aside 4 or 5 or even 10 or 20 percent of income for a given year and know that it will be enough to meet medical bills. For the individual family, medical costs are unpredictable and largely uncontrollable. In any given year, medical needs will confront some families with economic disaster and others with a burden which can be met only by sacrifice of other essentials, but no one can predict which families these will be. Over the cycle of a generation, few households escape a year or more in which illness brings heavy or crushing costs, but none can select for sickness the year when they are best able to pay for what they need.

THE NEED FOR SECURITY IN HEALTH

In the opinion of the Social Security Board, the lack of adequate measures to cope with sickness and disability represents the most serious gap in provisions for social security in the United States. This lack affects all areas in the country, all age groups, and nearly all income levels. Compensation for wage losses arising from temporary or prolonged incapacity to work would help employed persons and their families to maintain their financial independence when they suffer these involuntary reductions in earnings. It cannot be expected, however, that replacement of a part of customary earnings would be effective in enabling the population to meet the additional costs that are due to or associated with sickness of the worker or members of his family, or to meet needs for care which now are unmet.

Gaps and inadequacies in existing measures for public health and the lack of systematic provisions for assuring access to medical services for all persons who require care inevitably cast direct or indirect burdens on all other branches of the social-security program. These gaps and inadequacies are reflected in costs of relief, in unemployment or underemployment—to which, in ordinary times, the worker in substandard health is particularly liable—and in earlier retirement than many persons would choose if they were physically able to continue work. The goal of full employment implies not only job opportunities but also opportunities for all to achieve and maintain the health and vigor without which the individual cannot work effectively. The Social Security Board believes that provisions for health and medical care have an important place in any comprehensive and adequate program of social security.

A BASIC MINIMUM PROGRAM OF SOCIAL SECURITY

The purpose of a comprehensive program of social security is simple. Basically it is to enable the working population to maintain economic independence throughout the cycle of family life by distributing the return from labor over the periods in which breadwinners can earn and those in which they cannot. At any one time contributions made by the many who are subject to the risk are available to compensate the relatively few who at that time are suffering its impact. In addition, there must be systematic measures to assure the subsistence of persons who have not been able to share in social-security provisions based on work or who have met with extraordinary individual catastrophes.

It is not the aim of social security to provide a lifetime bonus. Social insurance represents, rather, a safeguard against economic hazards besetting the long road of self-support and family support, which is arduous and risky for most in any working generation. Among workers, as among a party of mountain climbers, some at any moment will have a secure foothold, while others, except for the safety rope, would slip to disaster. Some persons in each generation are not able to share in gainful work while some others at any given time will not have acquired an insurance stake commensurate with their individual needs. For these public assistance, representing the effort of the entire population, provides a secondary safeguard to the maintenance of personal and social integrity.

The major functions of a program of social security are therefore to cope with wage losses arising from the interruption or cessation of earnings and to remedy deficiencies in the personal resources of individuals who lack the means of subsistence. Rights to insurance stem from the individual's previous participation in work; rights to assistance, from his current need. Since capacity and opportunity to work are the foundation of both individual and national security, public measures to prevent and care for sickness and to assure access to jobs are essential to organized programs of social security.

The existence of opportunities for work is governed, of course, by basic economic factors beyond the scope and control of the social-security system. Insurance and assistance payments facilitate the smooth and orderly operation of economic forces by augmenting purchasing power when and where it is most needed. A comprehensive and flexible system of social security thus enables individuals and aids communities and the Nation as a whole to adjust to the changes and dislocations which are inherent even in progress. When disaster threatens the system is all the more necessary.

Progress under the Social Security Act has been more substantial than its proponents would have dared to predict 8 years ago. The provisions of law and the process of administration have been tested through an arc of widely differing economic conditions in years of depression, recovery, and war. The objectives of the program have been found in accord with the traditions and desires of the American people. Nearly all the principles incorporated in the original law and the 1939 amendments have proved sound and workable. On the other hand, certain minor provisions have been found cumbersome or defective, and experience has demonstrated one major fault in the design of the program. Certain gaps in its provisions, recognized and postponed for later action by those who were responsible for the formulation of the program, have become increasingly evident as it has developed.

No one can doubt that victory will bring sharp and sudden changes in all the factors in American life with which the social security program is concerned. Whether that time comes sooner or later it is now none too soon to design and implement the social-security provisions which will be needed during the demobilization of war industry and the armed forces, later readjustments to peacetime conditions, and the more remote future. If the program is to fulfill the anticipations and expressed desires of those who look to it—on battle fronts abroad and in homes and factories within our own borders—such consideration is needed now. The following pages outline in brief and general terms the areas in which, in the opinion of the Board, the program must be extended, changed, or implemented if it is to play its part now and in the years just ahead.

SOCIAL INSURANCE

A comprehensive system of social insurance would include provisions to compensate part of the involuntary loss of earnings experienced by the working population for any common reason beyond the control of individual workers. Such reasons may be grouped into those which cause prolonged or permanent loss of earnings—old age, death, and permanent disability of the wage earner, and those which cause more or less temporary interruption of earnings—unemployment and sickness. An approach to both types of risks is made under the Social Security Act through the provisions for old-age and survivors insurance and for unemployment compensation. In the opinion of the Board, the existing measures need revision and extension. The act contains no provision for offsetting wage losses due to sickness and disability except those incurred in old age.

UNEMPLOYMENT INSURANCE

The course of events since Pearl Harbor has emphasized what had become increasingly evident in prior years—that employment and unemployment are no respecters of State lines. When the social security program first came under discussion, it was argued that establishment of State systems for unemployment compensation would afford an opportunity for experimenting in different types of unemployment insurance and for adapting State systems to the widely varying economic conditions of the different States. It was also pointed out that the Federal-State system itself should be regarded as an experiment. Both the present world situation and the results of 4 years' full operation of all State programs now make it urgent to evaluate experience.

Serious administrative complexities are inherent in the present basis of operation because of the duplication of effort on the part of various Federal and State agencies concerned with the collection of contributions and maintenance of wage records for social insurance purposes. The multiple system of tax collection is unduly costly in

terms of public expenditures and expenses of employers for tax compliance. Nearly all establishments are subject to Federal contribution for old-age and survivors insurance, the Federal unemployment tax, and contributions under one or more State unemployment compensation laws. On the other hand, some small employers are not subject to the Federal unemployment tax, though liable for Federal old-age and survivors' insurance contributions and unemployment contributions under State law. A few are subject only to the last and not to any Federal tax. When an employer is taxable by both Federal and State governments, the respective coverage does not necessarily relate to the same employees or the same amounts of wages. An interstate employer may be required to make reports to several different States on different forms, under different instructions, and at different rates. He may not be sure in which State a worker is covered. Triplicate tax collections must be made—by the Federal Government for the two Federal insurance taxes and by the State unemployment compensation agencies. Duplicating wage records are necessarily maintained by the Federal Government for purposes of old-age and survivors insurance and by the State unemployment compensation agencies.

Difficulties and conflicts in administration also result from the present division of responsibilities for unemployment insurance between the Federal Government and the States. Federal grants to States under the Social Security Act supply the total costs of "proper and efficient administration" of State laws. The State agency is responsible for administering the State law; it spends Federal money without responsibility for providing the funds. The Social Security Board must ascertain that the funds have been used in accordance with the terms of the Federal law, yet it lacks authority to prescribe methods which have proved economical and efficient without infringing on the responsibility of the State. Appropriate discharge of the responsibility of one agency almost inevitably conflicts with the responsibility possessed by the other.

Of greater importance is the increasing evidence that the Federal-State system results in great diversity in the protection afforded against the risk of unemployment. Development of unemployment insurance under the 51 separate laws of the States and Territories has resulted in serious discrepancies in the adequacy of the provisions for unemployed workers in various parts of the country. It has also resulted in a segregation of insurance reserves under which there is a possibility that some States may become insolvent while other States have unnecessarily large reserves. The variations in contribution rates now permissible under the Social Security Act through State provisions for experience rating place disproportionate burdens on employers in interstate competition and set a penalty on the efforts of any particular State to improve its benefit standards and a premium on measures to restrict payments to workers.

In the opinion of the Social Security Board, these and other discrepancies, complexities, and lacks in the existing Federal-State program all lead to a single conclusion—that the origin and character of mass unemployment and of measures to combat it are such that responsibility for unemployment insurance cannot safely be divided among 51 separate systems. Evidence accumulates daily on the extent to which the tides of employment and unemployment are governed by Nation-wide or world-wide conditions. The conditions of employment within the United States are and will be governed largely by circumstances which only the Federal Government can influence—for example, policies concerning the cancelation of war contracts and demobilization of the armed forces. Because of the differences in size and economic structure, the States are not equally sound financial units for unemployment insurance purposes. To insure payments of benefits to qualified unemployed workers in any part of the country, reserves segregated in 51 funds must be far larger, in the aggregate, than would be necessary if the total were available to pay benefits wherever the claims originated.

The early discussion of adapting unemployment insurance to the particular conditions of a State overlooked the fact that variations in wage scales, types of industry, risks of unemployment, and other important factors are at least as great within States as among the 51 jurisdictions participating in the present program. A national system under which benefits are a proportion of wages, as is the case under the Federal old-age and survivors insurance system, effects an automatic adjustment of benefit payments to differences in pay scales in different areas. Present differences among the States in coverage, benefit provisions, and assets available for benefits bear little consistent relation to underlying economic differences.

The Board therefore is of the opinion that administration of unemployment insurance should be made a Federal responsibility in order to gear unemployment compensation effectively into a comprehensive national system of social security. Only Nation-wide measures to counter unemployment can be effective when the need arises for swift and concerted action to harmonize insurance activities with national policy during the change-over of our economic system to peace. At that time, any need for quick and unforeseen changes obviously can be met far more effectively by Nation-wide policy and by a single act of Congress than through the action of 51 administrative agencies and the necessarily cumbersome process of amending as many separate laws.

Even if the special stresses of post-war years were not impending, the Federal-State basis of the unemployment compensation program would have merited reconsideration and revision at this time. The actual course of its operation during a relatively favorable period of years has given no indication, in the opinion of the Board, that it possesses the advantages which it was hoped thus to achieve; on the contrary, experience has marshaled impressive evidence of its flaws and shortcomings. Incorporation of unemployment insurance in a unified national system of social insurance would result, the Board believes, in a program far safer, stronger, and more nearly adequate from the standpoint of unemployed workers and the Nation, and would permit more economical and effective methods of administration.

LOSSES AND COSTS OF DISABILITY

Loss of earnings from permanent and total disability has been widely accepted in other countries, and under retirement plans in this country, as a risk paralleling loss of earnings in old age. The worker who is permanently disabled in youth or middle age is in very much the same situation as the worker incapacitated by age, except that his need for insurance may be even greater because he has had less time to accumulate savings while his responsibilities for family support are likely to be greater. The Board recommends that insurance against permanent total disability be incorporated in the Federal system of old-age and survivors insurance and extended to all covered by that system under provisions, including benefits to dependents, which would follow the general pattern of this Federal program.

Cash benefits for temporary sickness and the early period of disabilities which may later prove permanent would strike at another serious cause of poverty and dependency. The Board believes that such provision is a feasible and needed adjunct to the social security program. Compensation of disability would be most effective and also most readily administered if provisions for both types of benefits were coordinated, so that the worker who had received the maximum number of weeks of benefits for temporary disability and was still incapacitated could continue to receive compensation, with appropriate adjustment of levels of benefits to the duration of disability. A unified system of disability compensation merits careful consideration.

Costs of medical care, as has been pointed out, are a peculiarly appropriate field for insurance provisions, since the problem does not lie in the average annual cost but in the uneven and unpredictable incidence of a risk to which nearly all the population is subject. These costs, as well as losses of earnings, constitute an important direct factor in causing dependency. Moreover, there is impressive evidence that the barrier of currently meeting costs of medical care keeps many individuals from receiving services which might prevent or cure sickness and disability and postpone death. From the standpoint of the general welfare and of safeguarding public funds for insurance, assistance, and public services provided in dependency, the Board believes that comprehensive measures can and should be undertaken to distribute medical costs and assure access to services of hospitals, physicians, laboratories, and the like to all who have need of them. For all groups ordinarily self-supporting, such a step would mean primarily a redistribution of existing costs through insurance devices. It should be effected in such a way as to preserve free choice of doctor or hospital and personal relationships between physicians and their patients, to maintain professional leadership, to ensure adequate remuneration—very probably, more nearly adequate than that in customary circumstances—to all practitioners and institutions furnishing medical and health services, and to guarantee the continued independence of nongovernmental hospitals.

THE NEED FOR PRESENT ACTION

The security of a people rests upon all measures which enable individuals to live out their lives with personal satisfaction and independence—both those which protect the integrity and progress of the Nation as a whole and those which assure individual opportunities for health, education, work, and personal freedom. The area of responsibility delegated to the Social Security Board is a small, though basic, part of this whole. The proposals here outlined represent, in turn, a practicable minimum basis for equipping our social insurance and public assistance programs to play their part in the years just ahead.

It goes without saying that the American people prize most the security wrung from work and individual effort. Such effort and public and private action to assure the utmost expansion of work opportunities have been assumed throughout the preceding discussion as the foundation of all systematic measures for social security. These measures constitute, on the one hand, a device to aid the orderly progress of economic development and, on the other, a means of caring for economic casualties. It would be as unrealistic to assume that such casualties will be lacking in the better peace we hope to achieve after this war as it would have been to send out our armed forces without provision for the men who are wounded or become sick or disheartened under the stress of battle. As in a campaign of war, so in the campaign against insecurity it is not always possible to tell just where or when the greatest stress will come. We do know, however, the nature of the dangers which confront us and the general character of the weapons we can bring to bear

against them. To fail to have such weapons in readiness is to invite needless suffering and disillusionment among the millions in our fighting forces, our factories, farms, mines, shops, and homes.

In the opinion of the Board, the present time is singularly auspicious for strengthening and extending our system of social insurance and assistance. With employment and earnings at record levels, millions of workers can and want to contribute toward making better provision for future contingencies in the form of social insurance against sickness, disability, unemployment, and old age. For many older workers, such an opportunity may not come again. The additional savings which workers could make now in the form of social insurance contributions are of particular importance, since for those who suffer the risk, the protection of insurance is far greater than that which they can make for themselves through individual savings, while all have potential protection. By creating a reservoir of future purchasing power, to be drawn upon where and when it is needed, the extension of social insurance to additional groups of workers and additional risks would add substantially to the Nation's resources for weathering the inevitable readjustments of the post-war years. At the same time, increases in insurance contributions would lessen current inflationary pressures. The adjustment to higher contribution rates on the part of employers can be made far more readily now than at any time during the past decade and more or, so far as can be foreseen, in the years just following the war. A unified social insurance system would provide a comprehensive and flexible means of coordinating policy and action in this field with other governmental measures and with national programs of business and industry in effecting the transition to peace. It would make it possible for workers and employers to underwrite future contingencies which otherwise will have to be met, in many cases, through emergency aid.

At the same time, provisions to ensure adequate assistance to persons in need are urgently required. It is not now available in all parts of our country in even this period of wartime activity, and the end of the war may find many States hard-pressed to alleviate distress in communities and among groups whose way of life is suddenly changed. The recommendations of the Board envisage, primarily, methods of helping to improve levels of assistance in States which have small economic resources and to give the assistance program a needed flexibility through Federal grants to States for general assistance. These measures, the Board believes, are a necessary adjunct to even a comprehensive and well-established social insurance system. They are the more necessary in view of the fact that, at best, a considerable part of our population has had little or no opportunity to acquire any insurance rights to cover the economic risks common among workers' families, while the post-war readjustment will bring many additional problems.

It was not until 4 years after the Social Security Act became law in 1935 that unemployment insurance was in effect in all States in the Union, and more than 4 years before the first old-age benefits were payable. Wage records had to be set up, reserves accumulated, and an administrative organization established. After some 8 years, not all States yet have all three assistance programs in operation. The process of establishing social provisions which affect the lives of millions of people is necessarily slow if progress is to be sound, well-considered, and economical. At the present time, the social security program is the richer for the past years of effort and has resources in experience, training, organization, and methods tested by actual operation. Even so, however, it will take time to effect whatever provision the Congress finds desirable to correct past deficiencies and strengthen the program to meet future stresses. Whether one believes that the war will end in 1 year or 5, the time in which to build a stronger system of social security is short, in view of the character of the changes, and readjustments we confront as individuals and as a people.

THE REVENUE ACT

The Senate resumed the consideration of the bill (H. R. 3687) to provide revenue, and for other purposes.

Mr. GEORGE. Mr. President, I ask that the Senate now proceed to the consideration of the renegotiation title of the tax bill, beginning on page 154.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the clerk will state the first amendment under title VII.

The CHIEF CLERK. On page 155, it is proposed to strike out lines 10, 11, and 12, as follows:

(B) The terms "reprice" and "repricing" include a determination by agreement or order under this section of a fair price for performance under a contract or subcontract.

Mr. GEORGE. Mr. President, that language is stricken out because repricing is considered in a separate title to the bill.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

The next amendment in title VII will be stated.

The CHIEF CLERK. On page 155, in line 16, after the word "excessive", it is proposed to strike out the words "for the work and articles furnished."

Mr. GEORGE. Mr. President, that amendment is intended as a clarifying amendment only.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

The next amendment in title VII will be stated.

The CHIEF CLERK. On the same page, in line 21, it is proposed to strike out the word "raw."

Mr. GEORGE. That is a clarifying amendment, Mr. President.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

The next amendment in title VII will be stated.

The CHIEF CLERK. On the same page, in line 24, after the word "production" and the comma, it is proposed to strike out "and."

The amendment was agreed to.

The next committee amendment was, on page 156 in line 1, after the word "war", to strike out "earnings" and to insert "earnings, and comparison of war and peacetime products."

Mr. GEORGE. That is a peacetime amendment, Mr. President, to which there is no objection.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

The next amendment to title VII will be stated.

The CHIEF CLERK. On page 156, after line 13, it is proposed to insert the following:

(vii) financial problems in connection with reconversion;

(viii) whether the profits remaining after the payment of estimated Federal income and excess profits taxes will be excessive.

Mr. GEORGE. Mr. President, the committee is offering an amendment to that amendment, which I will ask to have stated.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The CHIEF CLERK. On page 156, line 14, it is proposed to strike out "financial."

Mr. GEORGE. That word, Mr. President, is stricken out by order of the committee. In determining excessive profits the committee required two factors to be considered which were not in the House bill. One factor to be considered was financial problems in connection with reconversion, and while this factor was not in the House bill, it was actually covered in the House report. Your committee believes that the word "financial" ought to be stricken, and the amendment to the amendment is offered for that purpose.

Mr. TRUMAN. Mr. President, is it in order now to call up the substitute which I offered, and which now lies on the table.

Mr. GEORGE. I think it would be in order, I will say to the Senator from Missouri.

Mr. TRUMAN. Mr. President, I ask that the substitute amendment offered by me on behalf of myself and the Senator from New Mexico [Mr. HATCH] be now considered. It was submitted on January 19. In it a specific plan is outlined for reserves for reconversions. The amendment is a substitute for certain language in the committee amendment which is now pending.

The VICE PRESIDENT. The proper order is first to dispose of the amendment to the committee amendment offered by the Senator from Georgia, and then to take up the substitute offered by the Senator from Missouri on behalf of himself and the Senator from New Mexico [Mr. HATCH].

Mr. GEORGE. The Senator from Missouri is not objecting to striking out the word "financial"?

Mr. TRUMAN. No, Mr. President.

The VICE PRESIDENT. Without objection, the amendment offered by the Senator from Georgia on behalf of the committee, to the pending committee amendment, is agreed to.

Mr. TRUMAN. Mr. President, I move then to strike out lines 14 and 15 on page 156, and that in lieu thereof there be substituted the language of the amendment offered by the Senator from New Mexico [Mr. HATCH] and myself on January 19.

The VICE PRESIDENT. The amendment offered by the Senator from Missouri on behalf of himself and the Senator from New Mexico [Mr. HATCH] will be stated.

The CHIEF CLERK. It is proposed to strike out lines 14 and 15 on page 156——

Mr. TRUMAN. And to substitute the amendment offered by the Senator from New Mexico and myself. The last print of the amendment is the print of January 19.

Mr. GEORGE. Mr. President, I request that the clerk state the amendment.

The VICE PRESIDENT. The amendment offered by the Senator from Missouri on behalf of himself and the Senator from New Mexico will be stated.

The CHIEF CLERK. On page 156, it is proposed to strike out lines 14 and 15, and in lieu thereof to insert the following:

SEC. 131. Reconversion reserve.

(a) Deduction for reconversion reserve: Section 23 (relating to deductions in computing net income) is amended by inserting after section 23 (y) the following:

"(z) Deduction for reconversion reserve:

"(1) In general: The amount of the reconversion reserve, if the taxpayer elects in his or its return to take such deduction.

"(2) Definition: For the purpose of this code, reconversion reserve means an amount determined by the taxpayer not exceeding 20 percent of the taxpayer's net income computed without the benefit of this subsection."

(b) Reconversion reserve bonds: This code is amended by adding a new subtitle at the end thereof, as follows:

"SUBTITLE G—RECONVERSION RESERVE BONDS

"SEC. 6000. Payment for reconversion bonds.

"Every taxpayer who elects to take a deduction for reconversion reserve under section 23 (z), shall, in the same manner and at the same times as though it were part of the tax, pay to the United States an amount equal to the amount of such deduction.

"SEC. 6001. Issue of reconversion bonds.

"(a) Issue of bonds: Within 3 months after the payment by a taxpayer of the amount required by section 6000 to be paid, the Secretary of the Treasury is authorized and directed to issue to and in the name of the taxpayer bonds of the United States in an amount equal to such amount paid by the taxpayer under section 6000.

"(b) Terms and maturity of bonds: The bonds provided for in subsection (a) shall be issued under the authority and subject to the provisions of the Second Liberty Bond Act, as amended, and the purposes for which bonds may be issued under such act are extended to include the purposes for which bonds are required to be issued under this section. Such bonds shall be payable on demand at any time to and including but not after the last day of the eighteenth month beginning after the date of cessation of hostilities in the present war, shall bear no interest, shall be nonnegotiable, and shall not be transferable by sale, exchange, assignment, pledge, hypothecation, or otherwise, except to a successor as defined in subsection (c). Such bonds shall be designated as reconversion bonds. If not redeemed by the maturity date fixed in this subdivision, said bonds shall become null and void and of no value.

"(c) Definition of 'successor': For the purposes of this section, the term 'successor' means such person or persons who succeed, either directly or through one or more other persons, to ownership of property of the taxpayer, as the Secretary may by regulations prescribe.

"(d) Date of cessation of hostilities in the present war: As used in this section, the term 'date of cessation of hostilities in the present war' means the date on which hostilities in the present war between the United States and the Governments of Germany, Japan, and Italy cease, as fixed by proclamation of the President or by concurrent resolution of the two Houses of Congress, whichever date is earlier, or in case the hostilities between the United States and such governments do not cease at the same time, such date as may be so fixed as an appropriate date for the purposes of this section.

"SEC. 6002. Special rules.

"(a) Increased net income: If the taxpayer pays a deficiency in tax as a result of an increase in net income, then the amount of the reconversion reserve, the amount payable by the taxpayer under section 6000, and the amount of bonds to be issued under section 6001, may be increased accordingly, at the election of the taxpayer upon notice given in such form and within such time as the Secretary may by regulations prescribe.

"(b) Decreased net income: If an overpayment of tax resulting from a decrease in net income is refunded or credited to the taxpayer, then the reconversion reserve shall be decreased by such sum, if any, as shall be necessary to bring it within the 20-percent limitation imposed by section 23 (z), and the taxpayer shall be entitled to demand and receive payment of an amount of the bonds previously issued as provided in section 6001, equal to the amount of such decrease in the reconversion reserve, without including such amount in gross income as provided in section 22 (m).

"(c) Reconversion bond proceeds included in gross income: Section 22 is amended by inserting after section 22 (l) the following:

"'(m) There shall be included in gross income the principal amount of reconversion bonds (issued under section 6001) paid to the taxpayer during the taxable year, except in the case referred to in section 6002 (b) (relating to decreases in net income).'

"(d) Effective date: The amendments made by this section shall be applicable with respect to taxable years beginning on and after January 1, 1943."

Mr. TRUMAN. Mr. President, on Friday of last week, I read into the RECORD a complete explanation of the proposed amendment offered on behalf of the Senator from New Mexico [Mr. HATCH] and myself. It proposes to give the taxpayer permission to set aside, out of his gross taxes, 20 percent of the gross tax amount which he would pay in the years 1942 or 1943, and to put that amount into nonnegotiable, non-interest-bearing bonds—he could make use of an amount up to 20 percent for that purpose—to be used exclusively for reconversion after the cessation of hostilities.

We made a survey of approximately 100 companies. We have had replies from approximately 86 of them, as I recall, in which replies it is stated that they are going to need funds amounting all the way from $150,000,000 down. More than half of them did not know what they would need or whether they would need anything.

The amendment simply would give the taxpayer the option to set aside a reconversion fund if he so desired. It would leave the money in the Treasury of the United States; and if it were not used for the purpose for which it was intended, it would go back into the Treasury.

The tax collector would not lose any funds because of the amendment, except if the taxpayer decided that he needed a certain amount of money for reconversion purposes, up to 20 percent of the gross taxes during these taxpaying years, he could use it for those purposes after the cessation of the war. If he did not use it, as I say, it would go back into the Treasury, and would stay there. If he did use it, it would help in a situation in which we are all interested, so that he would have a fund which would help him in the reconversion process during the years following the war.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. TRUMAN. I yield.

Mr. TAFT. Let me inquire whether the Senator estimates what the reduction of taxes in the year 1944 would be, if the amendment were agreed to.

Mr. TRUMAN. There would not be any, because the money would stay in the Treasury, anyway, unless it were used for the purpose described.

Mr. TAFT. Perhaps the Senator misunderstands me. As I understand the amendment, the result would be that a corporation could deduct up to 20 percent of its gross income, to be used for post-war reserves.

Mr. TRUMAN. At the option of the taxpayer. But as a result of a survey of more than 100 companies, with returns coming from more than 86 of them, more than half of them said they did not know whether they would need such a reserve, or, if they did, how much they would need. The amendment would give them a chance to use such a reserve if they should need it.

Mr. TAFT. Yes. But, on the other hand, I notice that the amendment provides for the deduction of 20 percent of net income, which, as so figured, would be used as reconversion reserves.

Mr. TRUMAN. No, Mr. President; I think the Senator misunderstands the amendment. The taxpayer would be allowed to deduct 20 percent of the amount of the tax which he would pay for those years, not 20 percent of his income.

Mr. TAFT. Twenty percent of the amount of the tax?

Mr. TRUMAN. Yes; 20 percent of the amount of his tax, not 20 percent of his income.

Mr. TAFT. Then, of course, he would not pay so large a tax.

Mr. TRUMAN. Of course not; but practically all Members of the Senate are endeavoring to arrive at some means of providing for reconversion.

Mr. TAFT. I ask the Senator if he can inform us what is his estimate of the amount of the tax the taxpayers would not pay?

Mr. TRUMAN. If every taxpayer who had been in war work were to take advantage of the situation provided by the amendment, for reconversion purposes, the result probably would amount to a billion or two billion dollars. I have made no estimate regarding it.

Mr. TAFT. Mr. President, I myself would estimate that in the year 1944 it would mean a possible loss of taxes to the Federal Government of $3,500,000,000. Some of that would be recovered after the war, of course. However, the net result—and I assume that the amendment now under discussion is the printed amendment which was submitted by the Senator on January 19——

Mr. TRUMAN. That is correct. It was rewritten to comply with the tax set-up.

Mr. TAFT. The amendment would allow the additional deduction of net income, as follows:

The amount of the reconversion reserve—

Which is defined as—

Reconversion reserve means an amount determined by the taxpayer not exceeding 20 percent of the taxpayer's net income computed without the benefit of this subsection.

The total income of all corporations in 1944 is estimated to be $25,000,000,000, so

that the total deduction from income which might be made under the Senator's amendment would be $5,000,000,000. Of course, I do not know whether the total deduction would be made. The Senator has said he does not think the total amount would be availed of. But I think it would be availed of by every company which could possibly avail itself of it because presumably after the war the tax rate will be lower.

So if $5,000,000,000 should be deducted from the net income, inasmuch as the average rate at which corporations are paying today is approximately 70 percent, the maximum actual reduction in taxes which would show up in the present budget of the account of receipts and disbursements of the Government would be $3,500,000,000. That is approximately a billion and a quarter dollars more than the whole amount of taxes which will be produced by the pending tax bill. I do not see how we could make that change in our current set-up, and have any tax bill left. I have no doubt the Treasury would far prefer to have the tax bill vetoed, and disposed of in that way, rather than to have it result in a net reduction of a billion and a half dollars in taxes.

Mr. TRUMAN. Mr. President, the Senator from Ohio and nearly everyone else with whom I have been in touch have been endeavoring to find some means of meeting the reconversion problem which will have to be faced after the emergency of the war period is over. Some practical way must be found by which to meet it. The amendment reported by the Finance Committee virtually would set up another tax authority in respect to the renegotiation of contracts. I do not think any other tax authority in addition to the one we have should be set up; and I think a commonsense approach to this whole matter will convince the Senator, if he will carefully study the amendment the Senator from New Mexico and I have offered, that it is an approach which can be made without costing the Government an unconscionable amount of money, either in taxes or in any other way. I do not agree with the Senator's statement that we would lose a great deal of money by the program suggested by the amendment.

Mr. TAFT. Mr. President, will the Senator further yield?

Mr. TRUMAN. I yield.

Mr. TAFT. I quite agree with the Senator about renegotiation, although I do not care to enter into a discussion of it at the present time. But I do not think the statement that corporations will have no reserves left for postwar conversion is quite correct. Even after paying the very heavy taxes we have levied, corporations made a net income of $5,000,000,000 or $6,000,000,000 in 1937 or 1938.

Mr. TRUMAN. How many corporations have a net income of $5,000,000,000 or $6,000,000,000?

Mr. TAFT. I am speaking of all the corporations in the United States.

In 1942, even after the payment of taxes, the corporations had still remaining $8,500,000,000.

In 1943, it is estimated they will have $9,350,000,000, after taxes.

In 1944, it is estimated they will have $10,400,000,000.

I am not quite certain whether those figures take into account the increase in corporation taxes which will be imposed by the pending bill.

Nevertheless, there is an answer to that, which is that some of the funds are invested in additional land. That is quite true. Of course, a great deal of those funds is not in the form of cash, but largely in the form of corporation accounts receivable as against the Government, or in inventories, or in other current items. It is vitally important that the Government set up a method for the termination of contracts, so that all such assets will be converted into cash immediately after the war. But even if they are converted into cash immediately after the war, I do not think the amount of the net profit actually invested in bricks and mortar is such that it will very materially reduce those sums.

I realize that I am speaking in averages, but the Senator is also speaking in averages. I feel that it is vitally important that corporations have sufficient cash after the war to go ahead. I feel that it is vitally important that we provide the methods by which they can finance their post-war operations.

Mr. TRUMAN. Not only corporations but partnerships and individuals ought to be taken care of.

Mr. TAFT. It seems to me that the result of the tax law is such that most corporations will have reserves without the additional provision made by the Senator's amendment.

Mr. DANAHER. Mr. President, will the Senator yield?

Mr. TRUMAN. I yield.

Mr. DANAHER. I should like to understand fully the proposal of the Senator from Missouri. I find myself presently disconcerted by what I think he said to the Senator from Ohio. As I understood the Senator from Missouri, he said that 20 percent of the tax would be available for the purpose of reconversion.

Mr. TRUMAN. That is correct.

Mr. DANAHER. The language of the amendment which is before the Senate provides that the taxpayer may take, in non-interest-bearing, nonnegotiable bonds, 20 percent of his net income computed without the benefit of this section.

Mr. TRUMAN. He may set aside that amount in non-interest-bearing, nonnegotiable bonds, the money for which remains in the Treasury all the time. When he takes it out for the purpose of reconversion, it goes back into his income for the particular year, within 18 months after the conclusion of hostilities, and he must pay a tax on it if he does not use it for reconversion, the same tax he would otherwise have to pay anyway.

Mr. DANAHER. Does the Senator contemplate that the taxpayers' net income would be computed before or after paying the corporation income tax?

Mr. TRUMAN. Net income, of course, is after he has paid his taxes, and after renegotiation. Net income means just what it says—after he pays his taxes.

Mr. DANAHER. After taxes?

Mr. TRUMAN. Yes.

Mr. DANAHER. And after renegotiation?

Mr. TRUMAN. Yes. That is his net income. It can not be computed in any other way.

Mr. DANAHER. There are many ways of computing it. The term "net" may mean before taxes, and hence be net subject to tax.

Mr. TRUMAN. That is not the intention.

Mr. DANAHER. I merely wished to find out what the Senator had in mind.

Mr. TRUMAN. I had in mind an approach to reconversion which would work practically without costing the Federal Government anything in taxes if the funds were not used for the purposes intended.

Mr. DANAHER. We are all sympathetic with the desire of the Senator from Missouri to provide some post-war reconversion fund. It is one of the most important problems confronting the Finance Committee.

Mr. TRUMAN. That is correct.

Mr. DANAHER. It has been discussed in every possible phase. I am merely seeking to understand what the Senator is driving at. I thank the Senator.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. TRUMAN. I yield.

Mr. HATCH. I should like to say a word in response to some of the questions which have been asked about this plan.

This plan is not original with either the Senator from Missouri or myself. In fact, I do not know who originated it. It is the result of study by a number of persons. At the time our committee was studying the whole subject of renegotiation this plan was submitted. We had discussed other plans. We realize, as I think everyone else realizes, that the problem of reconversion is a most serious one, and that we ought to take whatever proper and legitimate steps we can take now to provide for some method of reconverting from a wartime to a peacetime economy.

After considerable study we concluded that this plan offered the most feasible, practical, and almost automatic, self-executing method that has been suggested.

Briefly, the plan would permit the taxpayer to take 20 percent of his total tax payment in nonnegotiable bonds. By that method the Government would actually receive the cash from the taxpayer. The Government would have the benefit, for the war effort, of the cash paid during the designated period of time. The taxpayer would receive nonnegotiable bonds up to 20 percent of this tax, which he would have to surrender for redemption within 18 months after the cessation of hostilities. If he did not do so, automatically, the money and the bonds would become the property of the United States. The taxpayer would have no further claim to them. But if the bonds were redeemed and the taxpayer took the cash within the period of

18 months, the money would have to be used for reconversion purposes. It would have to be accounted for in his tax return for that period. If it were used for purposes of reconversion, as expenses, of course the taxpayer would be entitled to a deduction; but if it were not used for that purpose, he would pay a tax on it in that year, at whatever rate might be effective.

There is one danger in the plan. The Senator from Ohio [Mr. TAFT] mentioned it a while ago. The Government might lose some money by this process. If in that year, whenever it might be, the tax rates were lower than they are now, then the taxpayer who did not use the money for reconversion purposes would get the benefit of the lower rate.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. TRUMAN. I yield.

Mr. TAFT. Of course there is one further condition. Not only would the taxpayer pay a lower tax if the tax rates were lower, but if he should not happen to make any profit that year—which is exceedingly likely—he would not have to pay any tax at all, and he would never have to pay a tax on the reconversion fund. Presumably his profits will be very much smaller after the war, and therefore he may not have to pay any tax at all.

Mr. HATCH. Under the terms of the amendment, this sum would have to be returned for taxation.

Mr. TAFT. Yes; but suppose the taxpayer had a net loss that year, which is more than probable. The year after the war, when reconversion is in progress, a taxpayer may have no actual business while he is reconverting. Consequently he will have a loss, and he will be able to balance the proceeds of the bonds against the loss, and will not have any tax at all to pay.

Mr. HATCH. The Senator from Missouri has just suggested, while the Senator from Ohio was speaking, that if the taxpayer had a loss he certainly would need the reserve at that time to keep him in business and keep from going broke. It might be very beneficial to the Government to have him do so.

The Senator has pointed out two dangers, namely, the possibility of entire loss of income, so that no tax would be paid, and the further possibility of a reduced rate. Those are really the only two dangers.

In my judgment, this plan provides a method which does not require any large organization in the revenue department. It is automatic and self-executing, and I think it is worthy of most serious study by this body. The Senator from Missouri and I first suggested it last September in some remarks on the floor of the Senate. At that time it was thought that, being a revenue measure, it should originate in the House, so we did not offer it. We offered it as an amendment to the revenue bill.

I think it is of first importance to devise some feasible, practicable plan. This is the best one we have found.

Mr. DANAHER. Mr. President, will the Senator yield?

Mr. TRUMAN. I yield.

Mr. DANAHER. Of course, there is this to be said: I believe the Senator will concede that at the present time the Government's need for revenue is desperate. If we withdraw from taxes and from present use by the Government a large sum of money, in the post-war period, when corporations are unable to earn anything comparable to what they now earn, the Government will still confront the problem of funding the demands for reconversion.

Mr. HATCH. The Senator must bear in mind that this plan is altogether optional with the taxpayer. It has been suggested that every taxpayer would take advantage of it. I am not so sure that that would be the case. The study which we have made of the various companies does not indicate that it would be. I think the Sun Oil Co. replied that it did not think it would need any money at all for post-war reconversion. General Motors, Ford, and others will need great sums. I am not sure that every corporation would take advantage of it, because it does have its dangers as well as its advantages to the taxpayer.

Mr. FERGUSON. Mr. President, will the Senator yield?

Mr. TRUMAN. I yield.

Mr. FERGUSON. Could individuals take advantage of this provision?

Mr. TRUMAN. It is for the benefit of all taxpayers.

Mr. FERGUSON. Would it be possible for an individual who wanted to reduce his tax in some future year to take advantage of this provision even though he did not intend to reconvert from a war to a peacetime operation, and thereby, as the Senator from Ohio [Mr. TAFT] has pointed out, benefit by avoiding payment of any tax because of a loss in that year, or a reduced tax because of the change in the tax rate? Is there that loophole in the amendment?

Mr. TRUMAN. I do not think so. I think that unless he used the reconversion bonds for the purpose for which they were intended, he would lose the whole amount because it would remain in the Treasury. He would have to use it within the 18-month period immediately following cessation of hostilities.

Mr. FERGUSON. Would he have to demonstrate to the Government before receiving the money that he intended to use it for reconversion to peacetime industry or would he receive the money anyway?

Mr. TRUMAN. It is the period of use which determines. There is nothing in the amendment which would force him to use the money for reconversion.

Mr. FERGUSON. Must he demonstrate to the Government that he is going to use it for reconversion, or may he obtain the money and then make a return showing that he has or has not used it for that purpose?

Mr. HATCH. He first obtains the money and then makes the return.

Mr. FERGUSON. He first obtains the money and then makes the return showing whether or not he has used it for reconversion?

Mr. HATCH. If the money is not used for reconversion purposes, he must pay a tax in the full amount.

Mr. FERGUSON. If he received the money in that particular year.

Mr. HATCH. Yes.

Mr. FERGUSON. So that would allow an individual to reduce his tax. If he had a large income tax this year and he anticipated that during the 18 months after the war he would have a small income, he would benefit under this provision.

Mr. HATCH. It could work out that way and it might work out the other way. It would be a matter of speculation.

Mr. TRUMAN. Mr. President, I wish to correct a statement which I made to the Senator from Connecticut a moment ago. I have reread the section and I note that it refers to net income before taxes and before renegotiation. I made an incorrect answer to the Senator and I wish to correct it.

Mr. DANAHER. I thought the Senator meant what he has now stated.

Mr. TRUMAN. That is correct.

Mr. GEORGE. Mr. President, has the Senator from Missouri concluded?

Mr. TRUMAN. I have concluded.

Mr. GEORGE. Mr. President, I prepared a speech for delivery at Chicago and did not deliver it because Pearl Harbor intervened. I canceled the engagement and did not appear there because on that date Japan began her unholy war against us.

I suggested and have repeatedly urged on the Treasury a post-war reserve. I make this explanation because I do not want to oppose what the distinguished Senators have in mind in offering this amendment. I have suggested that in computing his taxable income any taxpayer should have a right to deduct not to exceed 15 percent of his income provided he put it into non-interest-bearing, non-negotiable bonds, and provided, also, he paid a capital-gains tax on the amount deducted. The matter has been discussed frequently with representatives of the Treasury. The Treasury did not approve of it. I still believe that a sound post-war program can be worked out on that basis, and I regret that we have not done so.

However, the proposal contained in the pending amendment strikes me as being quite different because it applies both to individuals and corporations—to all taxpayers. The amount of taxes which it is estimated will be paid this year by taxpayers after the pending bill becomes law is approximately $18,000,000,000 in the case of individuals, and approximately $15,000,000,000 in the case of corporations, or a total of about $33,000,000,000. If the amount on which those taxes are based is reduced by 20 percent it is easy enough to see that the total collections will be reduced by about $6,600,000,000.

It is true that 18 months after the war the taxpayer would make a return on the proceeds of his bond which, in the meantime, would bear no interest. It would be taken up in his ordinary income, and the tax then paid upon it. That would leave the Treasury exposed to the imminent and almost certain danger that the

rates would have changed from the present high rates, and that losses by many taxpayers, both individuals and corporations, would have occurred, the taxpayer passing out of the taxpaying status into a nontaxable status. It would be too hazardous a program to adopt on the basis suggested in this amendment.

The Ways and Means Committee of the House considered the question of post-war reserves. They gave it earnest consideration. In their report they indicate their purpose to pursue the study. I am hopeful that something may yet be adopted before the termination of the war which will be a help to all organizations and individuals in the country by way of post-war reserve. However, I think this amendment would certainly so destroy the revenue from the standpoint of the Treasury as to make the adoption of the amendment most inadvisable, and I therefore oppose it.

I have this to say, Mr. President: It is an absolute necessity that the present high rates come down before the expiration of 18 months after all hostilities have ceased. Otherwise the country will be impoverished. In my opinion there is no shadow of doubt on that question. After the war ends corporations cannot pay a normal tax of 40 percent and an excess-profits tax of 95 percent. Also, there is no chance that the high rates on individuals, reaching 90 percent, can stand without breaking the economy of the country after the war has come to an end. I am not theorizing. I am simply making a statement, and it does not matter to me who takes a contrary view; I know that unless the rates come down we shall have a bankrupt country. Our economy will be shattered to the very bottom. I think all in America, except some people who merely theorize, know it.

Under this amendment the Treasury could be exposed both ways. It would lose taxes for the war years and have bonds outstanding which would have to be paid when the bonds were presented. It is also certain that many of our taxpayers, individual and corporate, will not all be taxpayers 18 months after the war ends. How many of them will be I do not know, but certainly they will not all be taxpayers, and if they have become insolvent and have no taxes to pay except the tax due on these bonds, it is obvious that their taxes will be very greatly reduced. They will be in lower brackets, and the Treasury will suffer an enormous loss.

I want it understood that I have long advocated with all seriousness the principle and the objective involved in the amendment.

Mr. TRUMAN. Mr. President, will the distinguished Senator yield?

Mr. GEORGE. I yield.

Mr. TRUMAN. I am very happy over the attitude of the Senator from Georgia. I want to say that if the country will be busted after this thing is over it seems to me that the creation of a reserve of some size such as we are proposing here would militate toward preventing that very disaster from taking place.

Mr. GEORGE. I think it would.

Mr. TRUMAN. And we could then continue to collect the tax at a rate which would meet the indebtedness of the country.

What the Senator from New Mexico [Mr. HATCH] and I are aiming at is some practical means by which we can accomplish that purpose, because all the corporations, individuals, and partnerships that have been converted from peacetime production to wartime production have had but one customer with an inexhaustible pocketbook. They will not have that customer after the war emergency is over. They will have to convert to peacetime production, and unless they have some means of meeting the reconversion and getting on their feet while their customers are coming back to them we are going to have a bankrupt country.

Mr. GEORGE. What I said about a bankrupt country, Mr. President, was on the theory that the maintenance of inordinately high taxation will break any country after the war is over. I have the utmost sympathy with the objective of the amendment, but I think it would be unwise to adopt it.

I did not finish all I intended to say about the House committee's program. It is intended that the question of reserves will be given further study, and it is hoped that during this year provision may be made for the setting up of reserves, but, on the basis here suggested, I think it would be too hazardous an undertaking. I hope the amendment will not be agreed to.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Missouri [Mr. TRUMAN] on behalf of himself and the Senator from New Mexico [Mr. HATCH]. [Putting the question.] The Chair is unable to determine from the volume of the response whether the "ayes" or the "noes" have it.

Mr. TRUMAN. I ask for a division.

Mr. GEORGE. Let us have a division. That is the best way to settle it.

On a division, Mr. TRUMAN'S amendment was rejected.

The VICE PRESIDENT. The question is on the committee amendment as amended.

Mr. ANDREWS. I have an amendment which I ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The LEGISLATIVE CLERK. On page 156, after line 18——

Mr. GEORGE. Mr. President, we have not taken up that amendment as yet.

The VICE PRESIDENT. Will the Senator from Florida withhold his amendment for a moment? The question is on agreeing to the committee amendment as amended.

The amendment as amended was agreed to.

The VICE PRESIDENT. The clerk will state the next amendment of the committee.

The LEGISLATIVE CLERK. On page 156, after line 15, it is proposed to insert:

(viii) whether the profits remaining after the payment of estimated Federal income and excess-profits taxes will be excessive.

Mr. GEORGE. I desire to make a brief statement. Another factor which your committee thought might well be considered in arriving at excessive profits is whether the profits remaining after the payment of estimated Federal income and excess profits taxes will be excessive.

While your committee did not believe it is mandatory upon the Board or the court to determine excessive profits after payment of estimated Federal income and excess-profits taxes, it is believed that the fact that a contractor does have to pay heavy income and excess-profits taxes is a factor which the Board or the courts might want to consider in reviewing its final result.

It is not meant by such provision that the Board or the courts must always leave a profit after taxes which the contractor earns in the pre-war years.

In short, Mr. President, this amendment simply means that in reviewing the final result, the Board shall give some consideration to whether or not the amount of profits left after taxes are excessive under all the circumstances.

The PRESIDING OFFICER. The question is on agreeing to the amendment on page 156, line 16.

The amendment was agreed to.

The LEGISLATIVE CLERK. On the same page, at the beginning of line 19, to strike out "(vii)" and insert "(ix)."

Mr. ANDREWS. Mr. President, my amendment comes in at that point.

The PRESIDING OFFICER. The amendment offered by the Senator from Florida will be stated.

The LEGISLATIVE CLERK. On page 156, after line 18, it is proposed to insert the following:

(ix) upon request of the contractor or subcontractor, the losses sustained by such contractor or subcontractor in the performance of work or furnishing of supplies for or to any department, agency, or bureau of the Government, whether or not such department, agency, or bureau is specifically mentioned in this act: *Provided, however,* That such losses shall be confined to losses sustained since April 28, 1942.

Mr. ANDREWS. Mr. President, that amendment is independent of the committee amendment which is above in paragraph (viii). I assume that the Senate will want to dispose of paragraph (viii) before it takes up my amendment. In other words, the committee amendment to paragraph (viii) is now before the Senate. The amendment I offer follows that and has nothing to do with (viii).

The VICE PRESIDENT. Subdivision (viii) has already been agreed to, and the question is on the amendment of the Senator from Florida.

Mr. ANDREWS. Mr. President, I should like to make a brief explanation of the reason I think the amendment ought to go into the bill at this place.

It is my belief that the amendment to the renegotiation title of the bill which I have just submitted should be adopted in order to cure and prevent injustices arising from the failure of the Board to consider and allow for losses sustained by contractors on contracts with agen-

cies other than those specifically mentioned in the bill.

For example, under contracts with the War Department a contractor erects buildings on a War Department reservation. Under contracts with the Federal Housing Authority the contractor erects buildings on the same or another War Department reservation. On the War Department contracts, the contractor realizes a profit, whereas on the Housing Authority contracts, he suffers a severe loss, which loss was admittedly not his fault, or due to his negligence.

In determining alleged excessive profits on the War Department contracts, the Board refuses to consider and allow for the losses on the Housing Authority contracts, on the ground that it is without authority to do so because the Housing Authority is not one of the agencies mentioned in the law. And the Board refuses to make these adjustments, notwithstanding the fact that under the law as it exists, the Board enjoys broad discretion in the matter of the factors which it may consider and apply in determining excessive profits.

Assuming, for example, that the Board determines excessive profits of $100,000 on War Department contracts and the contractor suffered a loss of $100,000 on Housing Authority contracts, it would be unfair for the Board to recoup $100,000 on the War Department contracts and to leave the contractor with his loss of $100,000 on the Housing Authority contracts. Such a result is patently unjust, in that the United States will get the buildings erected for the War Department at cost-plus profit, as determined by the Board, and it will get the buildings erected for the Housing Authority at less than cost, and to the contractor's severe loss. Such a result is indefensible in that it makes of the United States a profiteer under the protection of a right to avoid excessive profits on its war necessities while making excessive profits because of the very same war conditions.

The bill now sets forth certain factors which the Board must consider in reaching its determination of excessive profits. Among such factors is factor ix on page 156 of the bill, which provides that the Board must consider such other factors the consideration of which the public interest and fair and equitable dealing may require. To some it might appear that said factor ix would afford ample authority to the Board to consider and allow for the losses on the Housing Authority contracts in reaching its determination as to excessive profits on the War Department contracts. But the bill, like the law, does not mention the Federal Housing Authority as well as many other agencies and departments of the Government. Since the Board, notwithstanding the broad discretion enjoyed by it under the law as it stands, holds that it is without authority to consider losses sustained on contracts with agencies which are not mentioned in the law, it seems clear that it will refuse to consider such losses as a factor under the bill, and for the same reason.

Assuming, however, that the Board will, when the bill shall be enacted, consider such losses under "factor ix," or one of the other factors, it is rather certain that it will not consider such losses incurred prior to the enactment of the bill or, at least, prior to July 1, 1943.

The amendment I offer contains the words "upon request of the contractor or subcontractor" merely to place the burden on the contractor to present and prove such losses so to be considered by the Board. It further provides for the consideration of such losses incurred since April 28, 1942, because that is the date of the original Renegotiation Act; because it insures against any contention that Congress did not intend the relief to be retroactive; and because it is not conceivable that Congress ever really intended, or that it now intends, that such losses should not be considered and allowed for in reaching a determination of excessive profits.

Mr. President, I think I have explained the reasons why my amendment should be agreed to. In my opinion it would be only a matter of justice to adopt the amendment. If Senators desire, I can point to a particular instance where the situation I have been discussing prevailed. A contractor entered into a contract to construct buildings under one authority on a reservation for the Army, and on another portion of the same reservation another building for another agency. In one instance he incurred a severe loss, through no fault of his own. It was because he could not get material, the Government did not grant him priorities for material, and because, as a result of the Government changing a labor zone, labor conditions were made different in that section of the country. Yet when the authorities came to settle with the contractor they said, "You will have to take your losses on one contract and make out with what you made on the other." Contractors cannot remain in business, and the Government cannot obtain the services of people, if that kind of a policy is to be pursued.

Mr. President, I ask that the amendment be agreed to.

Mr. GEORGE. Mr. President, I must oppose the amendment, and I merely have this to say about the matter. Contracts made with the Housing Authority by contractor A, let us say, are not subject to renegotiation. The amendment would permit such a contractor, if he also had a contract with the War Department which is subject to renegotiation, to ask that losses incurred by him under his contract with the Housing Authority be considered in the renegotiation. It is, of course, a one-way street, because a contractor would never ask to have his contract with another agency of the Government, which is not subject to renegotiation, considered, unless he suffered a loss. While it may seem unjust on the face of it for a contractor who has a contract with the War Department, let us say, which is subject to renegotiation, and who sustains a serious loss on a contract with another Federal agency which is not subject to renegotiation, not to have that fact taken into consideration, yet it would not be fair to adopt such an amendment as that proposed unless all the profits, as well as the losses, under a contract made with an agency whose contracts are not subject to renegotiation, were subjected to renegotiation.

Mr. President, I hope the Senate will not agree to the amendment.

The PRESIDING OFFICER (Mr. McCLELLAN in the chair). The question is on agreeing to the amendment offered by the Senator from Florida [Mr. ANDREWS].

The amendment was rejected.

The PRESIDING OFFICER. The clerk will state the next amendment in title VII.

The LEGISLATIVE CLERK. On page 157, line 6, after the words "opinion of", it is proposed to strike out "The Tax Court of the United States" and insert "the Court of Claims."

Mr. TRUMAN. Mr. President, on page 156, line 19, there is a subsection marked "(ix)." I ask unanimous consent that I may offer a clarifying amendment, by adding at the end of the amendment the words "which factors shall be published in the regulations of the Board from time to time as adopted."

Mr. President, one of the great complaints of contractors, and of others who have had contracts to be renegotiated, has been that they did not know what the regulations were or what the situation was with regard to the fact that they had to be renegotiated, and they could not get the information. The War Department and the Navy Department have books several inches thick containing their regulations, but they are marked "secret," and no one can look at them. The amendment I am offering would give everyone a chance to see what the regulations may be, and what he may be up against when his contract has to be renegotiated. It would take much of the fire out of the complaints about renegotiation. I ask unanimous consent that the amendment be considered at this time.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 156, in line 21, after the word "requires", it is proposed to add, "which factors shall be published in the regulations of the Board from time to time as adopted."

The PRESIDING OFFICER. Is there objection to consideration of the amendment? The Chair hears none. The question is on agreeing to the amendment offered by the Senator from Missouri [Mr. TRUMAN].

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will restate the committee amendment on page 157.

The CHIEF CLERK. On page 157, line 6, after the words "opinion of", it is proposed to strike out "The Tax Court of the United States" and insert "the Court of Claims."

Mr. GEORGE. Mr. President, under the House bill court review was granted in a de novo proceeding before The Tax Court of the United States. The committee has substituted the Court of Claims for The Tax Court of the United States to handle this proceeding. Some objection was made by the Treasury, and the Department of Justice, and the War Department, to conferring jurisdiction of renegotiated cases to The Tax Court of

the United States. It was contended that to confer such jurisdiction upon The Tax Court might seriously interfere with the handling of tax cases by that court, particularly the relief cases under section 722 of the Internal Revenue Code relating to excess-profits taxes. The committee proceeded on that view. The Court of Claims, at the request of the contractor or subcontractor, is required to furnish a statement of its determination of the facts used as a basis therefor and of its reasons for such determination. It is simply a substitution of the Court of Claims for The Tax Court.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. TRUMAN. Mr. President, I should like to offer an amendment to the provision under consideration.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 175——

The PRESIDING OFFICER. An amendment on page 175 is not now in order. The Senate is engaged in considering amendments on page 157.

Mr. GEORGE. Yes, Mr. President; the Senator's proposed amendment comes at a later point in the bill.

Mr. TRUMAN. I thought the amendment dealing with the Court of Claims was under consideration. I wish to offer an amendment to appear at the proper place in the bill dealing with the Court of Claims, and to make a statement with respect to it, if the Senator from Georgia will allow me to do so.

Mr. GEORGE. Yes, Mr. President. I do not know where the proposed amendment would come in.

Mr. McKELLAR. Mr. President, will the Senator from Missouri read his proposed amendment? It seems to me the statement with respect to it should be made more specific. I think by all means the taxpayer should have a right to go to court under certain circumstances.

Mr. TRUMAN. I agree with the Senator.

Mr. McKELLAR. The Government ought to have exactly the same right. I think the statement with respect to the amendment should be a little more specific. I should like to have the clerk read the amendment so we may know with what it deals.

Mr. TRUMAN. Mr. President, I am informed by the Senator from Wisconsin [Mr. LA FOLLETTE], who is a member of the Finance Committee, that my amendment belongs at a later point in the title, but I shall be glad if the Senator from Georgia will permit the amendment to be read, and that I may make a brief statement with respect to it when we come to the place in the bill where it belongs.

Mr. GEORGE. Mr. President, I have no objection to the amendment being stated. I have not seen it.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 175, line 1, after the words "Court of Claims", it is proposed to insert the following: "to set aside the determination and."

On page 175, lines 2–7, it is proposed to strike out the following:

> Upon such filing such court shall have exclusive jurisdiction, by order, to finally determine the amount, if any, of such excessive profits received or accrued by the contractor or subcontractor, and such determination shall not be reviewed or redetermined by any court or agency.

And to insert in place of that language the following:

> Such petition shall constitute the exclusive method of review of such order and upon the filing thereof such court shall have exclusive jurisdiction by order finally to determine the amount, if any, of such excessive profits received or accrued by the contractor or subcontractor; such determination shall be subject to appellate review as in the case of other decisions of the court, but shall not be reviewed or redetermined by any other court or agency; and no suit brought for the purpose of restraining a renegotiation or the enforcement thereof, or the withholding or recovery of any amounts pursuant thereto, or for the purpose of compelling any action in disregard of a renegotiation shall be maintained in any court, nor shall any renegotiation be set aside or disregarded in any suit or action in any court. The Court of Claims shall not set aside the determination made in the order unless it first appears that one or more material facts stated pursuant to subsection (c) (1) as the basis therefor are wrong or that the determination is based on one or more errors of law. If the determination is set aside by the court, the court shall determine the amount of excessive profits.

On page 175, line 14, after the phrase "shall not", it is proposed to insert the following: "except as hereinbefore provided."

Mr. TRUMAN. Mr. President, the Senator from New Mexico and I——

Mr. WALSH of Massachusetts. Mr. President, will the Senator yield?

Mr. TRUMAN. I yield.

Mr. WALSH of Massachusetts. Will the Senator wait until we reach the amendment on the page of the bill on which the Senator's amendment would come, because the subject is very important? Other amendments must be considered before we reach the amendment with which the Senator's amendment deals, and we will be in much better position to deal with the Senator's amendment if it comes in its regular order.

Mr. TRUMAN. I shall be very glad to wait until we come to the point at which my amendment applies.

Mr. BARKLEY. Mr. President, if the Senator is willing to wait until the amendments offered by the committee shall have been agreed to seriatim it would result in a more orderly procedure.

Mr. TRUMAN. I am sorry I brought the amendment up at this time. The Senator from Georgia spoke of the court, and for that reason I thought it proper to present my amendment.

The PRESIDING OFFICER. The clerk will state the next committee amendment in title VIII.

The LEGISLATIVE CLERK. On page 157, line 9, after the words "opinion of" it is proposed to strike out "The Tax Court of the United States" and insert "the Court of Claims."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next committee amendment.

The CHIEF CLERK. On page 157, line 16, after the words "opinion of" it is proposed to strike out "The Tax Court of the United States" and to insert "the Court of Claims."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The next committee amendment will be stated.

The CHIEF CLERK. On the same page, line 19, after the word "subcontract" and the period it is proposed to strike out "No commission, percentage, brokerage, or contingent fee paid or payable by a contractor with a department to any person for or in connection with the soliciting or securing by such person of a contract with a department shall be allowed as an item of cost, unless such person is a bona fide established commercial or selling agency maintained by the contractor for the purpose of securing business. Except as otherwise provided in the foregoing provisions of this paragraph" and to insert "notwithstanding any other provisions of this section."

Mr. GEORGE. Mr. President, the committee amendment which should now be considered is merely to strike out certain language of the House bill beginning in line 19 on page 157.

Mr. LA FOLLETTE. Mr. President, if the Senator will yield——

Mr. GEORGE. I yield.

Mr. LA FOLLETTE. The amendment as now represented is an amendment to strike out and insert, and it would seem to me that the amendment should be agreed to in that form.

Mr. GEORGE. There is no subsequent language proposed in lieu of the language stricken out. The language proposed to be inserted relates to an altogether different subject matter.

Mr. LA FOLLETTE. Yes, but I understood the clerk read the amendment as an amendment to strike out and insert.

Mr. GEORGE. I am now asking, Mr. President, that the amendment be considered as an amendment to strike out, because that is what it is.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 157, after the word "subcontract" and the period in line 19, it is proposed to strike out the following: "No commission, percentage, brokerage, or contingent fee paid or payable by a contractor with a department to any person for or in connection with the soliciting or securing by such person of a contract with a Department shall be allowed as an item of cost, unless such person is a bona fide established commercial or selling agency maintained by the contractor for the purpose of securing business. Except as otherwise provided in the foregoing provisions of this paragraph."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. GEORGE. Mr. President, the next amendment then is the new lan-

guage proposed to be inserted in line 2, page 158.

The PRESIDING OFFICER. The amendment of the committee will be read.

The CHIEF CLERK. On page 158 in line 2, it is proposed to insert "Notwithstanding any other provisions of this section."

Mr. GEORGE. I do not believe there is any objection to that amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment in title VII.

The CHIEF CLERK. On page 158, line 3, after the word "items" it is proposed to strike out "of the character allowed" and insert "allowable."

Mr. GEORGE. Mr. President, on behalf of the committee I offer an amendment on page 158, line 4, before "allowable" to insert "estimated to be."

Mr. President, that is a committee amendment made for the obvious purpose of making it possible to close renegotiation of any contract without having to wait for final tax determination, and it is simply an estimate to be made by the renegotiators of the tax item which is allowable as a cost item.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered on behalf of the committee, to the committee amendment.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. The next committee amendment in title VII will be stated.

The CHIEF CLERK. On page 158, line 7, after the word "subcontracts" it is proposed to insert the following: "(or, in the case of the recomputation of the amortization deduction and in the case of carry-overs and carry-backs, allocable to contracts with the Departments and subcontracts)."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GEORGE. Mr. President, I send to the desk an amendment which should properly be considered at this point. The amendment is to the House text. I offer the amendment and ask to have it stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 158, beginning with line 15, it is proposed to strike out down to and including line 2 on page 159 and insert:

(5) The term "subcontract" means—

(A) Any purchase order or agreement to perform all or any part of the work, or to make or furnish any article, required for the performance of any other contract or subcontract; or.

Mr. GEORGE. Mr. President, that amendment, which was agreed to by the Committee on Finance, and which the chairman was instructed to offer on the floor of the Senate, would restore the provision of existing law; that is to say, it would restore the definition of subcontracts which now appears in existing law. This particular item has been a controversial one and was not offered by the Senate Finance Committee or in committee. It has been a House provision from the beginning, and is now; but the committee is proposing to strike it and to return to the definition of subcontracts contained in existing law. Of course, that would have the effect of throwing the issue into conference.

Mr. DANAHER. Mr. President, I wonder if the reading clerk read from the printed text of an amendment which came to us this morning. Because in line 1 of the amendment the definition would purport to apply to "subcontractor", and it should not. I should like to know what the amendment does say.

Mr. GEORGE. I think that was corrected, I will say to the Senator from Connecticut. The amendment I sent to the desk did correct that technical error.

Mr. DANAHER. I thank the Senator.

The PRESIDING OFFICER. The Chair understands that the correction has been made in the amendment as stated.

The question is on agreeing with the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment of the committee in title VII.

The CHIEF CLERK. On page 160, after line 7, it is proposed to strike out:

(A) which is not specially made to specifications furnished by a Department or by another contractor or subcontractor.

The amendment was agreed to.

The next amendment of the committee was, on page 161, in line 20, after the numerals "1943", to insert "and involving an estimated amount of more than $100,000."

The amendment was agreed to.

The next amendment was, on page 161, in line 23, to strike out "to repricing, and."

The amendment was agreed to.

The next amendment was, on page 162, line 5, after the word "subcontract", to insert "described in subsection (a) (5) (A) involving an estimated amount of more than $100,000, and in each subcontract described in subsection (a) (5) (B) involving an estimated amount of more than $25,000."

The next amendment was, on page 162, in line 11, to strike out "to repricing, and."

The amendment was agreed to.

The next amendment was, on page 162, in line 17, after the word "profits", to strike out the comma and "or any amount in excess of the fair price under the subcontract determined as a result of repricing."

The amendment was agreed to.

The next amendment was, on page 162, line 24, after the word "subcontract", to insert: "described in subsection (a) (5) (A) involving an estimated amount of more than $100,000, and in each subcontract described in subsection (a) (5) (B) involving an estimated amount of more than $25,000."

The amendment was agreed to.

The next amendment was, on page 163, line 24, after the word "which", to strike out "this subsection" and insert "subsection (c)"; in line 25, after the word "provisions", to strike out "required by", and insert "specified in"; and on page 164, line 2, after the word "to", to strike out "this" and insert "such."

The amendment was agreed to.

The next amendment was, on page 164, line 17, after the word "profits", to strike out "realized or likely to be realized" and insert "received or accrued"; and, in line 24, after the word "with", to strike out "The Tax Court of the United States" and insert "the Court of Claims."

The amendment was agreed to.

Mr. GEORGE. Mr. President, I send to the desk an amendment which I offer and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 165, line 5, after the word "year", it is proposed to insert "(or such other period as may be fixed by mutual agreement)."

Mr. GEORGE. Mr. President, the amendment is a clarifying one which would give the Board authority to determine excessive profits on the basis of the fiscal year of the contractor or on the basis of such other period as may be fixed by mutual agreement.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. TRUMAN. Mr. President, I had a proposal which I should like to offer, if I may obtain unanimous consent to do so. The amendment I would offer would come in on page 165, in lines 15 and 16. The amendment is merely a clarifying one. Lines 15 and 16 on page 165 read, "The amount of excessive profits, whether such determination is made by order or is embodied in an agreement."

I desire to change the language, so as to read "profits, by order and not by agreement."

I offer that amendment.

Mr. GEORGE. Mr. President, not having seen the amendment, I ask to have it stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 165, lines 15 and 16, it is proposed to strike out "profits, whether such determination is made by order or is embodied in an agreement" and in lieu thereof to insert "profits, by order and not by agreement."

Mr. TRUMAN. Mr. President, I should like to offer a brief explanation. Then, if the Senate sees fit to allow the language to be changed as I have proposed, it can do so.

The purpose of this amendment is to limit the requirement imposed by that section—that the Board furnish a statement of the facts and reasons for its determination—to those cases in which a unilateral determination is made. It seems to me reasonable and desirable to require such a statement when the parties are not able to agree. I see no reason for requiring the additional paper work in cases of bilateral agreements. Indeed, to require such additional work

in cases of bilateral agreements might well interfere with the war effort. It is a basic principle of renegotiation that contractors whose performance has been less efficient than that of their competitors should be cut down to a lower figure of profit than that allowed to their efficient and economical competitors. Yet, if the management were required to take a written statement back to the stockholders to the effect that their profits had been cut down because they had done a poor and inefficient job, it is apparent that such management would have to appeal from such a determination in order to save their own jobs. They would have to spend their time fighting the Price Adjustment Board, instead of continuing to fight the war. It surely was not the intent of the Senate Finance Committee to bring about such a result.

I hope the Senator will permit that amendment to go to conference.

Mr. GEORGE. Mr. President, that amendment was offered yesterday in an effort to compose all our differences. It was voted down by the committee, and I think for very substantial reasons. It seems to me that the contractor is entitled to a statement. It may or may not aid him in reaching an agreement with the department. It certainly is not an unreasonable burden to put on the department to say that it shall give the contractor a simple statement, although he may subsequently, after studying the statement, reach an agreement with the department. I hope the amendment will not be agreed to, because it was affirmatively rejected yesterday by the Finance Committee.

Mr. TRUMAN. Mr. President, as I understand, unanimous consent is required for the consideration of the amendment.

The PRESIDING OFFICER. Does the Senator request unanimous consent that the amendment be considered?

Mr. TRUMAN. I do.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Missouri?

Mr. GEORGE. Mr. President, I have no objection to the consideration of the amendment, although I do not wish to consider any other amendments until we complete the committee amendments. However, inasmuch as it has been presented, I have no objection to its consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the amendment offered by the Senator from Missouri [Mr. TRUMAN]? The Chair hears none.

The question is on agreeing to the amendment offered by the Senator from Missouri.

The amendment was rejected.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The next amendment was, on page 165, line 22, after the word "used", to strike out "as evidence or otherwise considered by The Tax Court of the United States in connection with its determination of excessive profits" and insert "in the Court of Claims as proof of the facts or conclusions stated therein."

The amendment was agreed to.

The next amendment was, on page 166, line 3, after the word "by", to strike out "The Tax Court of the United States" and insert "the Court of Claims"; in line 9, after the word "Departments", to strike out "and subcontracts"; in line 11, after the word "contractor", to strike out "or subcontractor"; in line 16, after the word "contractor", to strike out "or subcontractor"; in line 21, after the word "from", to strike out "such" and insert "the"; in the same line, after the word "contractor", to strike out "or subcontractor"; on page 167, line 4, after the word "paragraph", to strike out "or pursuant to subsection (f)"; in line 10, after the word "shall", to strike out "transfer to the Treasury, from appropriations of his Department, to the credit of miscellaneous receipts an amount equal to the amount so withheld or credited by him" and insert "certify the amount thereof to the Treasury and the appropriations of his Department shall be reduced by an amount equal to the amount so withheld or credited. The amount of such reductions shall be transferred to the surplus fund of the Treasury"; and in line 17, after the word "In", to strike out "determining the amount of any excessive profits to be eliminated hereunder" and insert "eliminating excessive profits."

The amendment was agreed to.

The next amendment was, on page 167, line 25, after the word "commenced", to strike out "by the Board."

The amendment was agreed to.

The next amendment was, on page 168, line 2, after the word "accrued", to strike out "or more than 1 year after the statements required under paragraph (5) are filed with the Board, whichever is the later."

Mr. GEORGE. Mr. President, I send to the desk a number of amendments in this particular text, some being amendments to committee amendments and others amendments to the House text. The amendments occur at various places, but they are all related. I should like to make a statement with respect to the amendments.

These are clarifying amendments relating to the statute of limitations. Under the House bill, no proceeding to determine excessive profits could be commenced after the close of the fiscal year in which such profits were received or accrued, or after 1 year following the date on which financial statements required by the Board were filed. Because of the uncertainty as to the type of financial statement and the time within which it must be filed under the House bill, your committee eliminated this second requirement of not commencing the running of the statute until the financial statements were filed. The amendments which I now offer provide for a definite financial statement to be filed with the Board on or before the 1st day of the fourth month following the close of the fiscal year. Therefore, it is believed proper to have the 1-year statute of limitations start running from the date of filing this statement or the close of the fiscal year, whichever is the later, and this amendment so provides.

I may say also that these amendments meet all the objections of the services on this point.

The PRESIDING OFFICER. The first amendment offered by the Senator from Georgia will be stated.

The CHIEF CLERK. On page 168, in the committee amendment proposing to strike out lines 2, 3, and 4, it is proposed to strike out "statements", in line 3, and insert "statement"; and in the same line, before the word "filed", to strike out "are" and insert "is."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Georgia to the committee amendment.

The amendment to the amendment was agreed to.

The amendment to strike out the text, as amended, was rejected.

The PRESIDING OFFICER. The next amendment offered by the Senator from Georgia will be stated.

The CHIEF CLERK. On page 168, in the committee amendment proposing to strike out lines 6, 7, and 8, it is proposed to strike out "statements", in line 7, and insert "statement"; and in the same line, before the word "so", to strike out "are" and insert "is."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Georgia to the committee amendment.

The amendment to the amendment was agreed to.

The amendment to strike out the text, as amended, was rejected.

The PRESIDING OFFICER. The next amendment offered by the Senator from Georgia will be stated.

The CHIEF CLERK. On page 169, beginning with line 15, it is proposed to strike out through line 23 and insert:

(5 (A) Every contractor and subcontractor who holds contracts or subcontracts, to which the provisions of this subsection are applicable, shall, in such form and detail as the Board may by regulations prescribe, file with the Board on or before the first day of the fourth month following the close of the fiscal year, a financial statement setting forth actual cost of production and such other information as the Board may by regulations prescribe. In addition to the statement required under the preceding sentence, every such contractor or subcontractor shall, at such time or times and in such form and detail as the board may by regulations prescribe, furnish the Board any information, records, or data required by the Board. Any person who willfully fails or refuses to furnish any statement, information, records, or data required of them under this subsection, or who knowingly furnishes any such statement, information, records, or data.

Mr. DANAHER. Mr. President, I should like to ask how the text will read, commencing with line 11 on page 2 of the amendment, and then reverting to page 169. Let me point out to the Senator from Georgia that the language in the amendment at the desk, on page 2, line 11, reads:

Any person who willfully fails or refuses to furnish any statement, information, records, or data required of them under this

subsection, or knowingly furnishes any such statement, information, records, or data—

Now, we revert, I assume, to page 169, line 23, which proceeds:

subsection, or who knowingly furnishes any such statement.

And so forth. I think there is something there that needs clarifying.

Mr. GEORGE. Mr. President, there was a clerical error in the amendment as originally submitted. That has been cleared up in the amendment read by the clerk. The Senator is probably looking at the printed amendment, which contains a clerical error.

Mr. DANAHER. May I ask that the clerk read the last four lines of the amendment at the desk?

The PRESIDING OFFICER. Without objection, the clerk will read as requested.

The CHIEF CLERK. Beginning in line 11, the amendment reads as follows:

Any person who willfully fails or refuses to furnish any statement, information, records, or data required of them under this subsection, or who knowingly furnishes any such statement, information, records, or data——

Mr. DANAHER. Where does it go from there?

The CHIEF CLERK. Continuing with the House text in line 24 on page 169—

containing information which is false or misleading in any material respect.

And so forth.

Mr. DANAHER. That is clear.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Georgia.

Mr. ELLENDER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ELLENDER. What has become of the text on page 168, in lines 2, 3, and 4? Has that been stricken from the bill?

The PRESIDING OFFICER. The Senator from Georgia offered an amendment to the committee amendment, which was agreed to, and the committee amendment proposing to strike out the text, as amended, was rejected.

Mr. GEORGE. Originally the language was stricken from the bill by the committee amendment, but now a substitute amendment, revising the language, has been agreed to.

Mr. ELLENDER. As I understand, the language has been reinstated.

Mr. GEORGE. Yes; with the amendments heretofore agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Georgia.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment under title VII.

The next amendment was, on page 171, line 14, before the word "members", to strike out "five" and insert "six"; in line 25, before the word "one", to strike out "and"; and on page 172, line 3, after the word "Finance", to strike out "Corporation" and insert "Corporation, and one shall be an officer or employee of the War Production Board and shall be appointed by the Chairman of the War Production Board."

The amendment was agreed to.

The next amendment was, on page 172, line 18, before the word "members", to strike out "Three" and insert "Four."

The amendment was agreed to.

Mr. GEORGE. Mr. President, there is an amendment which should be made at this time on page 173. I send forward the amendment and ask to have it stated.

The PRESIDING OFFICER (Mr. ELLENDER in the chair). The amendment will be stated.

The CHIEF CLERK. On page 173, in line 9, after the word "duty", it is proposed to strike out "(except the power, function, and duty to review orders determining excessive profits)."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

The amendment was agreed to.

Mr. GEORGE. Mr. President, I send forward another amendment which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 174, beginning with the comma in line 3, it is proposed to strike out down to and including the period in line 13, and insert:

The Board may review any determination by any such officer, agency, or division on its own motion, or in its discretion at the request of any contractor or subcontractor aggrieved thereby. Unless the Board upon its own motion initiates a review of such determination within 60 days from the date of such determination, or at the request of the contractor or subcontractor made within 60 days from the date of such determination initiates a review of such determination within 60 days from the date of such request, such determination shall be deemed the determination of the Board.

Mr. GEORGE. Mr. President, under the House text any contractor may, upon request, have his case reviewed by the War Price Adjustment Board. Your committee believes that this might result in throwing a considerable burden on the main board, and that if contractors or subcontractors were given the right to have their cases considered in the Court of Claims in a de novo proceeding, a second administrative review would not be necessary. Accordingly, it is provided that the Board may review the determination on its own motion, or in its discretion, at the request of any contractor or subcontractor aggrieved thereby.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Georgia.

The amendment was agreed to.

The PRESIDING OFFICER. The next committee amendment will be stated.

The next amendment was, on page 174, line 21, after the word "subcontractor", to strike out the comma and "or by an order of the Secretary under subsection (f) determining a fair price,"; and in line 25, after the word "the", to strike out "Tax Court of the United States" and insert "Court of Claims."

The amendment was agreed to.

The next amendment was, on page 175 in line 5, after the word "subcontractor", to strike out "or the fair price, as the case may be,"; in line 9, after the word "Board", to strike out the comma and "and may determine a fair price either less than, equal to, or greater than that determined by the Secretary"; and in line 12, after the word "the", to strike out "Tax Court" and insert "Court of Claims."

The amendment was agreed to.

Mr. TRUMAN. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. TRUMAN. May I ask the able Senator from Georgia if this is the proper time for me to call up the Court of Claims amendment which I offered some time ago?

Mr. GEORGE. Mr. President, I have departed from the original request as to the consideration of amendments, but in order that what the committee has done may receive anything like a view at a glance, so to speak, I am now compelled to ask that the committee amendments be first acted upon.

Mr. TRUMAN. I do not want to interfere with orderly procedure. I was merely inquiring of the Senator if consideration of my amendment would now be satisfactory.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Miller, one of his secretaries.

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the Vice President:

S. 184. An act to provide for the presentation of silver medals to certain members of the Peary Polar Expedition of 1908–9;

S. 653. An act for the relief of Johnny Newton Strickland;

S. 1090. An act for the relief of John Henry Miller, Jr.;

S. 1488. An act to authorize the Secretary of the Interior to convey to Jose C. Romero all right, title, and interest of the United States in a certain described tract of land within the Carson National Forest, N. Mex.

H. R. 3741. An act to authorize the Secretary of the Navy to proceed with the construction of certain public works, and for other purposes; and

S. J. Res. 108. Joint resolution making an appropriation for contingent expenses of the Senate.

THE REVENUE ACT

The Senate resumed the consideration of the bill (H. R. 3687) to provide revenue, and for other purposes.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The next amendment was, on page 175, in line 13, after the word "profits", to strike out the comma and "or to determine the fair price,"; in line 15, after

the word "Board", to strike out "or the Secretary, as the case may be"; in line 16, after the words "proceeding de novo" and the period, to strike out:

For the purposes of this subsection the court shall have the same powers and duties, insofar as applicable, in respect of the contractor, the subcontractor, the Board and the Secretary, and in respect of the attendance of witnesses and the production of papers, notice of hearings, hearings before divisions, review by The Tax Court of decisions of divisions, stenographic reporting, and reports of proceedings, as such court has under sections 1110, 1111, 1113, 1114 1115 (a), 1116, 1117 (a) and (b), 1118, 1120, and 1121 of the Internal Revenue Code in the case of a proceeding to redetermine a deficiency. In the case of any witness for the Board or Secretary, the fees and mileage, and the expenses of taking any deposition shall be paid out of appropriations of the Board or Department available for that purpose, and in the case of any other witnesses, shall be paid, subject to rules prescribed by the court, by the party at whose instance the witness appears or the deposition is taken.

And insert:

The Court of Claims is authorized to prescribe such rules of practice and procedure as it deems necessary to the exercise of its powers under this subsection. Whenever the court makes a determination with respect to the amount of excessive profits it shall, at the request of the contractor or subcontractor, as the case may be, prepare and furnish such contractor or subcontractor with a statement of such determination, of the facts used as a basis therefor, and of its reasons for such determination.

The amendment was agreed to.

The next amendment was, on page 176, in line 19, after "(2)", to strike out the comma and "or an order of the Secretary under subsection (f)."

The amendment was agreed to.

Mr. GEORGE. Mr. President, I send forward an amendment and ask to have it stated.

The PRESIDING OFFICER. The clerk will state the amendment offered by the Senator from Georgia.

The CHIEF CLERK. On page 176, beginning in line 25, it is proposed to strike out "whether or not such determination is" and insert "which is not"; and on page 177, beginning with "If" in line 24, strike out down to and including the period in line 4 on page 178.

Mr. GEORGE. Mr. President, under the House text the contractor or subcontractor is given the right to commence a de novo proceeding in the Court of Claims with respect to a fiscal year ending before July 1, 1943, whether or not an agreement has been entered into with a department. Your committee is of the opinion that the contractor or subcontractor should not be given the right to a court proceeding where his case has been closed by agreement. Accordingly, the right of court review is closed by agreement. The provision to which this amendment is offered was a House provision and was not originally amended by the Senate Finance Committee. However, on yesterday the committee decided to offer this amendment so that the matter could be opened in conference.

The PRESIDING OFFICER. The question is on agreeing to the amendments offered by the Senator from Georgia, which, without objection, will be considered en bloc.

The amendments were agreed to.

The PRESIDING OFFICER. The next committee amendment will be stated.

The next amendment was, on page 177, line 5, after the word "the", to strike out "Tax Court of the United States" and insert "Court of Claims"; in line 15, after the words "with the", to strike out "Tax Court of the United States" and insert "Court of Claims", and in line 21, after the numerals "1943", to strike out "(other than the amendment inserting this paragraph)" and insert "which are not made applicable as of April 28, 1942, or to fiscal years ending before July 1, 1943."

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment.

The CHIEF CLERK. On page 178, after line 5, after "(f)", it is proposed to strike out:

(1) Whenever, in the opinion of the Secretary of a department, the price under any contract with such department or subcontract which affects such department exceeds a fair price, the Secretary may require the contractor or subcontractor to negotiate to fix a fair price thereunder. If an agreement is not reached, the Secretary by order may fix the price which he determines to be a fair price for performance under such contract or subcontract after the date of the order. Any such agreement or order may prescribe the period during which the price so fixed shall be effective, and may contain such other terms and conditions as the Secretary deems appropriate. In determining a fair price under this subsection, the Secretary shall take into consideration all of the factors to be considered in determining excessive profits under subsection (a) (4) (A) of this section, and such other factors as he deems appropriate.

(2) Upon the making of an agreement or order under the subsection, the Secretary may—

(A) withhold from amounts otherwise payable to the contractor or subcontractor any portion of the contract price in excess of the price so fixed; or

(B) direct the contractor or another subcontractor to withhold for the account of the United States from amounts otherwise due the subcontractor any portion of the contract price in excess of the price so fixed.

(3) Where a contractor or subcontractor holds two or more contracts or subcontracts the Secretary, in his discretion, may exercise the authority conferred by this subsection with respect to some or all of such contracts and subcontracts as a group.

(4) The authority and discretion herein conferred upon the Secretary of each department may be delegated in whole or in part by him to such individuals or agencies as he may designate in his department, or in any other department with the consent of the Secretary of that department, and he may authorize such individuals or agencies to make further delegations of such authority and discretion.

And insert:

For repricing of war contracts, see title VIII of the Revenue Act of 1943.

The amendment was agreed to.

Mr. GEORGE. I send forward an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 179, beginning with line 24, it is proposed to strike out down to and including line 4 on page 180, and, in lieu thereof, to insert the following:

(h) This section shall apply only with respect to profits derived from contracts with the departments and subcontracts which are attributable to performance prior to the termination date. For the purposes of this subsection—

(1) The profits derived from any contract with a department or subcontract which shall be deemed "attributable to performance prior to the termination date" shall be those determined by the Board to be equal to the same percentage of the total profits so derived as the percentage of completion of the contract or subcontract prior to the termination date; and

(2) The term "termination date" means—

(A) December 31, 1944; or

(B) If the President not later than December 1, 1944, finds and by proclamation declares that competitive conditions have not been restored, such date not later than June 30, 1945, as may be specified by the President in such proclamation as the termination date; or

(C) If the President, not later than June 30, 1945, finds and by proclamation declares that competitive conditions have been restored as of any date within 6 months prior to the issuance of such proclamation, the date as of which the President in such proclamation declares that competitive conditions have been restored;

except that in no event shall the termination date extend beyond the date proclaimed by the President as the date of the termination of hostilities in the present war, or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. GEORGE. Mr. President, I send to the desk another amendment, which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 180, beginning with the first word "or", in line 23, it is proposed to strike out down to and including the word "harvested" in line 1 on page 181, as follows: "or any contract or subcontract for canned, bottled, or packed fruits or vegetables (or their juices) which are customarily canned, bottled, or packed in the season in which they are harvested."

Mr. GEORGE. Mr. President, it was agreed yesterday that that language should be eliminated from the bill. The committee amendment which follows relates to the portion of the House text stricken out.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Georgia proposing to strike out, beginning in line 23, page 180, is agreed to.

The committee amendment on page 181, line 1, will be stated.

The CHIEF CLERK. On page 181, after the word "harvested", in line 1, it is proposed to insert "or any contract or subcontract for a canned, bottled, packed, or processed dairy product or any product the principal ingredient of which is a dairy product."

Mr. LA FOLLETTE obtained the floor.

Mr. CONNALLY. Mr. President, will the Senator from Wisconsin yield?

Mr. LA FOLLETTE. I am glad to yield.

Mr. CONNALLY. Referring to the language on page 181 in italics, reading "or any contract or subcontract for a canned, bottled, packed, or processed dairy product", and so forth, why is it proper to do what that language provides as to dairy products and then strike out the language as to other canned products?

Mr. LA FOLLETTE. The purpose of this amendment is to take the entire proposition to conference, and this is the only way by which it can be achieved—namely, to strike out the House language and insert the committee amendment all of which will be in conference. It was for the purpose of having it all in conference that this action was taken.

Mr. CONNALLY. Very well.

Mr. BYRD. Only a portion of the House language is stricken out.

Mr. LA FOLLETTE. That is correct.

Mr. BYRD. I ask that the clerk read that again.

Mr. LA FOLLETTE. After the word "market" on line 23, page 180, it is proposed to strike out the remainder of the House language on that page and a portion of the sentence including the word "harvested" in line 1 on page 181, and then to insert the matter in italics which will have the effect of throwing both the House provision and the Senate action in conference for further consideration.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The clerk will state the next amendment of the committee.

The CHIEF CLERK. On page 181, line 11, before the word "saps" it is proposed to insert "natural resins."

The amendment was agreed to.

The CHIEF CLERK. On the same page after line 18, it is proposed to insert "(E)"——

Mr. TYDINGS. Mr. President, to the amendment which the clerk is about to read I should like to offer an amendment after he states it.

The PRESIDING OFFICER. The committee amendment will be stated.

The CHIEF CLERK. On page 181, after line 18, it is proposed to insert:

(E) any contract or subcontract with a common carrier for transportation, or with a public utility for gas or electrical energy, when made in either case at published rates or charges filed with, or fixed, approved, or regulated by, a public regulatory body, State, Federal, or local; or.

Mr. TYDINGS. Mr. President, I should like——

The PRESIDING OFFICER. The clerk has not finished the reading of the amendment as the Chair understands.

Mr. TYDINGS. I thought he had finished it. At any rate he finished the portion in which I am interested.

Mr. President, I should like to offer an amendment to the committee amendment on page 181, line 21, after the words "electrical energy" to insert "or communications services."

The reason I am offering that amendment is that all public utilities regulated by States ought either to be excluded or included. I understand other amendments will be offered to this section which will seek to modify or to limit some of the things which are set forth, but, regardless of how it may be modified or changed, certainly it seems to me that the situation ought to be a uniform one and that whatever applies to certain public utilities ought to apply to them all. In that spirit I offer the amendment and hope that it will meet the approval of the Senate.

The PRESIDING OFFICER. The amendment offered by the Senator from Maryland to the amendment of the committee will be stated.

The CHIEF CLERK. In the committee amendment on page 181, line 21, after the words "electrical energy", it is proposed to insert "or communications services."

Mr. LA FOLLETTE. Mr. President, I should like to make it clear to the Members of the Senate that the pending committee amendment—and I include of course the one offered by the senior Senator from Maryland [Mr. TYDINGS]—was not involved in any of the numerous conferences and negotiations of the Finance Committee concerning the renegotiation title to the pending bill. In the committee I strenuously opposed the amendment proposed by the committee and served notice at that time that I would oppose the amendment on the floor.

I have conferred with officials of the Federal Power Commission, who are responsible for the renegotiation of electrical and other contracts, and, in my opinion, especially since the action of the Finance Committee yesterday in including practically everybody and every type of commodity and article within purview of the statute of renegotiation, it is not a sound proposal to exclude contracts for utility services which the Government had to enter into because of the necessity of the war emergency.

Mr. TYDINGS. Mr. President, will the Senator from Wisconsin yield to me?

Mr. LA FOLLETTE. I yield.

Mr. TYDINGS. I take it the Senator is addressing his remarks to the entire amendment. Am I correct in that?

Mr. LA FOLLETTE. Yes; but if the amendment is to go into the bill I do not want to see it broadened.

Mr. TYDINGS. If the Senator will allow me, I should prefer to withdraw my amendment, and have the Senator make his fight on the committee amendment. Of course, if it is knocked out, there is no purpose in my offering the amendment.

Mr. LA FOLLETTE. Whatever course the senior Senator from Maryland desires to take is entirely agreeable to the Senator from Wisconsin.

Mr. TYDINGS. I withdraw the amendment, until the Senate takes a position on the matter, and if it is adverse, then, of course, there is no use offering the amendment, but if it is to be retained, then it should include all the utilities.

The PRESIDING OFFICER. The senior Senator from Maryland withdraws his amendment.

Mr. LA FOLLETTE. Mr. President, I wish to reiterate what I stated at the outset. If there ever was any justification for this amendment it seems to me it has gone by the board, now that the Senate Finance Committee and the Senate have decided to eliminate the amendments which would have excluded thousands of items and other component materials and parts going into war matériel. The cost of the power in producing a tank, a plane, or in producing aluminum is just as much a component part of the cost of the product as are the materials which go into it. In my opinion there is no more excuse for eliminating from renegotiation a utility contract which was entered into under the exigencies and pressures of the war necessity and emergency than there would be to eliminate a commodity which goes to make up the final product which is used by the men in the armed services.

The contention will be made here, I assume, as it was in the committee, that there are regulatory bodies constituted under State law which have general supervision over public utility rates and charges; but these are exceptional types of contracts. They are contracts in which 1,000 kilowatts or more of electric energy is being furnished. These are contracts in which the utilities provided additional facilities, and the procurement officials were under the same pressure, they were under the disadvantage of the same lack of experience, as they were when they contracted for tanks, machine guns, trucks, and all the other thousand-and-one items which are being produced for war.

Mr. President, it is not possible to state precisely in dollars and cents the effect of the proposed exemption as related to war contracts for electricity and gas. Only the major electrical contracts, 1,000 kilowatts and over, of the principal procurement agencies, and only a relatively small part of the war contracts for natural and manufactured gas, have been filed with the Power Commission.

It is almost impossible, without detailed investigation, to determine whether the rate in any particular contract is a public rate filed with or regulated by a public regulatory body. A few facts will, however, indicate the enormous size of the Government's obligations for such utility service, and the vital importance of reviewing and, where necessary, renegotiating such contracts to eliminate unreasonable and excessive profits.

In response to a directive of the President dated October 22, 1942, to the Federal Power Commission and to the various war power procurement agencies, there have been filed with the Commission for review 880 major contracts for the purchase of power for war plants and establishments, each involving 1,000 kilowatts of demand or over. I ask that a copy of this order be inserted at the conclusion of my remarks.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

(See exhibit A.)

Mr. LA FOLLETTE. Mr. President, the four agencies covered by the existing renegotiation statute—the War Department, the Navy Department, the Reconstruction Finance Corporation, and the Maritime Commission—have filed 758 such contracts, and the remaining agencies, such as the F. H. A., the F. W. A., and others, 122 contracts. These are all contracts in which the Federal Government is the purchaser, or has assumed an obligation to guarantee payment thereof.

In other words, Mr. President, these are only contracts which the Government itself or its agencies have made directly with the private utility corporations, or are instances in which the Government has guaranteed the payment of the contract involved.

Since the review of these contracts was undertaken pursuant to the President's directive, the rates and charges in 156 contracts have been analyzed and, after proper adjustments, approved by the Federal Power Commission as of November 27, 1943. Of the contracts approved, 127 were new contracts, and 29 renegotiations of existing contracts.

As a result, more than $3,000,000 a year, representing excessive profits inherent in the rates offered by the utilities for these loads, have been saved to the Government. In addition, excessive profits of approximately $5,000,000 in nonrecurring charges were eliminated from payments on facilities and penalties for contract cancelation, and so forth.

These 156 contracts represent an annual power bill of $45,000,000, and a use of electric energy of almost 9,000,000,000 kilowatt-hours. I realize that when we are dealing with billions of dollars this total sum may not seem to be so significant; but it is just as important, if by renegotiation we are to undertake to prevent excessive or exorbitant war profits, to prevent them in those instances where private utility companies have contracts which produce such profits as those, as to prevent them in the production of any item or article or implement which is utilized in connection with our war effort.

Mr. WALSH of Massachusetts. Mr. President, will the Senator from Wisconsin yield?

Mr. LA FOLLETTE. I yield.

Mr. WALSH of Massachusetts. As I understand the figures given in the statement by the Senator, the very existence of the renegotiation law has permitted better terms in the contracts made by certain agencies of the Government with these utilities, and, independent of what renegotiation has recaptured in the way of excess profits, it has resulted in savings to the Government.

Mr. LA FOLLETTE. I think that is true, but the point I was trying to make was that the agencies have already renegotiated 29 contracts which were in existence. The President's directive has given them the authority also to approve new contracts which are entered into following the issuance of his Executive order. But the amendment which was sponsored by the junior Senator from Maryland in the committee is designed to eliminate from renegotiation public utility contracts wherever rates and charges are promulgated by or filed with a State regulatory body. So far as I know, it will include all the States of the Union. In short, it is a naked proposition to eliminate from renegotiation the contracts which the Government or its subsidiary corporations have entered into directly with the private utility companies and those contracts in which the Government has guaranteed the payment to the utility companies.

Mr. WALSH of Massachusetts. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. WALSH of Massachusetts. The Senator referred to a $3,000,000 saving. How was that obtained?

Mr. LA FOLLETTE. I said that, in addition, excessive profits of $5,000,000 in nonrecurring charges were eliminated from payments on facilities and penalties for contract cancelation. Many of the utility companies contracted either with the Defense Plant Corporation or with corporations which were furnishing war materials, to supply additional facilities as well as current, and it has been found that, so far as they have gone, $5,000,000 has been saved in that field alone.

Now I am not charging that the public utilities were out to gouge the Government any more than I charge that the typical war contractor was out to gouge the Government. The fact is that no one knew in the hurly-burly, hectic days of converting this country to war what it would cost to turn out articles of war, and the load factors in these public utility contracts were so high that the experience of the utility companies and the State commissions did not extend to contracts of this magnitude. So they have already discovered excessive profits. But if the Senate should agree to the amendment adopted by the committee and sponsored by the Senator from Maryland, in the face of the record that already by agreement the utilities have been induced to reduce their rates, by one fell swoop the action of the Senate would exempt from renegotiation other contracts in which there are excessive profits.

It might as well be said, Mr. President, because an article had been furnished as a component part of a tank, and it was found on renegotiating some of the contracts that an exorbitant profit already had been made, which the manufacturer himself had admitted and agreed to with the renegotiation agency, that now, in the face of that situation, it would be decided not to renegotiate any more of those contracts.

Mr. President, my contention is, and I shall show that in the first place, the State utility commissions are not primarily interested in the problem of the Government in this situation; and, in the second place, I shall show that only six of the States have empowered their utility commissions to force public utility corporations to make refunds. My own State is one of those that does not give this power to its commission, and that was because of an obvious theory. The theory was that the commission was to be put under all possible obligation to arrive at a fair and reasonable rate in the first instance, and many persons who are students of public utility legislation agree that it is a mistake to give a commission the power to make refunds because then it has less pressure upon it to arrive at a fair and reasonable rate in the first instance.

There is now in active progress the review of 123 contracts involving energy use of 7,000,000,000 kilowatt-hours a year and annual bills of $46,000,000. That is already in progress. I reemphasize the fact that the present statute and the Executive order do not give the power of renegotiation over contracts unless they have been entered into directly with the Federal Government, or unless the Federal Government has undertaken to pay the cost of the electricity. But if the Senate shall adopt the amendment proposed by the Senator from Maryland, which is endorsed by the committee, it will result in stopping the Federal Power Commission from renegotiating 123 contracts which are now in progress, involving 7,000,000,000 kilowatt-hours a year and annual bills of $46,000,000.

How will Senators justify that, Mr. President, in the light of the fact that we are proposing to leave the renegotiation statute unimpaired insofar as concerns its jurisdiction over every other item, article, and element of cost in producing tanks, machine guns, small arms, planes, and ships, and all the other things that are being used by the men in the armed services of the United States? Will Senators do it simply on the ground that there are 48 public utility commissions in the United States, only 6 of which have authority under their own statutes to force a public utility to regurgitate any of its profits even if they found them to be excessive? But with the manpower shortage, which has hit every public utility commission in the United States, just as it has hit every other arm of State and Federal Governments, the commissions today are overburdened with work in discharging their primary responsibility and their sole responsibility under their State statutes as written, namely, to provide fair and reasonable rates to residential, to commercial, and to industrial users.

Mr. President, the State utility commissioners have no primary interest in the problem which the Government confronts. The experience of the Commission with the 156 contracts which have been approved and the 123 now in active progress conclusively indicates that excessive profits on war contracts exist in substantial amounts. This experience likewise makes it possible to estimate the amount of such excessive profits that can be expected to be found in the remaining contracts which have already been executed and may be subject to renegotiation.

There is a total of 530 such contracts on file with the Commission, of which the four renegotiating agencies, War, Navy, R. F. C., and Maritime Commission, have 448. These contracts include an estimated annual bill for power of over $157,000,000. Those are only contracts, I reiterate, in which the Federal Government has entered into a direct contract with the utility through a subsidiary cor-

poration owned by the Government, or in which the Federal Government has agreed to pay the bill to the utility company. They represent an annual use of electricity—mark these figures, Mr. President—in excess of 28,000,000,000 kilowatt-hours, and an estimated demand in excess of 4,000,000 kilowatts. It can be reasonably expected, on the basis of past experience, that excessive profits of approximately $8,000,000 annually are represented in the rates incorporated in these contracts, in addition to $9,500,000 of excessive nonrecurring charges for facilities, and so forth.

A detailed analysis of the savings which have been secured and may be expected from the readjustment and the renegotiation of major war power contracts by the Federal Power Commission in cooperation with the principal procurement agencies is available, and will be of interest to the Senate. Therefore, I ask unanimous consent to have it printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. WALSH of New Jersey in the chair). Without objection, it is so ordered.

(See exhibit B.)

Mr. LA FOLLETTE. Thus, Mr. President, in 880 war power contracts filed with the Commission there is represented an annual cost to the Government of approximately $250,000,000. Even in this day of expenditures of billions of dollars, I claim that sum is not "hay."

Including the excessive profits already eliminated in the 156 contracts approved by the Commission, the total excessive profits involved may be expected to exceed $12,000,000 a year, and the excessive nonrecurring charges may be expected to amount to approximately $15,000,000.

In other words, Mr. President, although it is proposed to eliminate these contracts from renegotiation as if they were contracts upon which performance might be concluded, yet these are continuing contracts which in all probability will go on to the end of the war.

Particular attention is directed to the fact that the $250,000,000 is an annual payment and the $12,000,000 is an annual excessive profit. Thus, if the war eventually lasts 4 years, the total payments under these contracts may reach $1,000,000,000. Likewise, the excessive profits are cumulative, and during such a period may reach $48,000,000.

Mr. President, I digress long enough to say that I do not think the amendment would be of any service to the public utility corporations. I think they are in the same boat with any other producer or manufacturer. If the theory of renegotiation is sound, in order to prevent industrial producers from obtaining excessive or exorbitant profits out of the war, it is sound that the utility companies should not do so. There has not been a scintilla of evidence before the Senate Finance Committee, or, so far as I know, before the House committee—although I can speak with authority only so far as the Senate Finance Committee is concerned—to justify the amendment. There is not a scintilla of evidence to show that in the renegotiation of these contracts the Federal Power Commission has injured a single utility corporation.

Mr. President, in the face of that kind of a record, is the Senate going to place itself in the position of saying that, merely because there are 43 State utility commissions in the United States—State utility commissions which, I reiterate, are not equipped to handle or primarily interested in handling this problem—there shall be eliminated from renegotiation these utility contracts under which, as has been demonstrated, because of the exigencies of the conditions under which they were negotiated in the first place, excessive profits or exorbitant profits have been found to exist? The Senate will be flying in the face of the whole record if it agrees to the amendment.

These excessive profits and charges are largely due to improper and incorrect application of published rates to loads for which such rates were never designed or intended. That is the milk in the coconut, Mr. President. The proposal here is that, because a State utility commission in the rightful discharge of its responsibility under State law has fixed fair and reasonable rates for commercial, residential, and industrial users in peacetimes, therefore, merely because those rates are in existence, they should be applied to these enormous contracts for extraordinary utilization of public utility services, with an enormous load factor involved.

Mr. President, there is a great difference, so far as economic result is concerned, in producing 1,000 items which go into a war machine, and perhaps involve the return of a reasonable and fair profit, and in furnishing for the same price 200,000 of those items, with the resultant return of an excessive and exorbitant profit. That is exactly what happened and exactly what will happen. The Government will never get back a penny of such excessive profits if we agree to the Radcliffe amendment; because, as I shall show, in some cases these load factors are enormous. The load is a primary load, not a fluctuating load. It is a load which goes on, in many instances, 24 hours a day, 7 days a week. The load is a superprofitable one. There is nothing like it in the experience of the private utility companies or in the experience of the Commission.

I point out again, Mr. President, that in the United States there are only six State utility commissions which have the power to make any of the utilities disgorge any of these excessive profits, even if they took their time, and turned their attention away from their sole obligation under the statute of fixing fair and reasonable rates for commercial, residential, and industrial users, in order to go into the matter and ascertain the situation.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. VANDENBERG. I do not know why the State utility commissions should have any great interest in endeavoring to delve into such situations, because never before have there been, and never again will there be, any such enormous load contracts.

Mr. LA FOLLETTE. Mr. President, I think the Senator is 100-percent correct, because, as I have said before, and I now repeat, the State utility commissions do not have any concern with these questions. The matter of excessive profits on such contracts is solely of concern to the Government, in the case of contracts in which the Government is a direct party to the contract, or contracts under which the Government underwrites the payment to the utility companies.

A rate which may be reasonable when applied to a plant operating with a 1,000 kilowatt load, operating 8 hours a day, becomes absurd, fantastic, and extortionate when applied to a great war plant with a 25,000-kilowatt load, operating 24 hours a day, 7 days a week, and in many instances 365 days a year. It does not require an expert on utility rates, or an expert on anything else, to understand that if we apply the rate for a 1,000 kilowatt load to a 25,000 kilowatt load, there will be exorbitant profits. Yet if we follow the recommendations of the Senator from Maryland and the Finance Committee, we shall be eliminating such contracts from renegotiation.

All the loads involved in these war-power contracts are large. The load factors generally are abnormally high, due to 24-hour plant operation. Even the minimum-sized, 1,000-kilowatt demand established by the Commission for filing under the President's directives would be considered a large load on any utility system in the country, and for some systems this minimum size would be larger than the largest industrial load previously handled on the system.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. SHIPSTEAD. Does the Senator mean to contend that these huge contracts are let without a proper rating of load with relation to price, or price with relation to load?

Mr. LA FOLLETTE. These contracts were entered into under the same conditions as the contracts for war material were entered into. They were entered into at a time when the Government was more concerned with getting the products than with the prices paid for them. But we enacted a renegotiation statute as a means of remedying any erroneous procurement procedures which have been indulged in because of the exigencies and necessities of that critical hour in our war experience. No rates were published, as provided for in this amendment, because in many instances the highest load factor established under those rates was far below anything a commission had ever fixed; and because often the contracting officers for the Government said, "We do not have time to go into this thing; we will just take the lowest published rate." Because the published rates were applied to those contracts in many instances, and have already revealed excessive profits, which the utilities have agreed are excessive, and for which they

have made refunds, I am strenuously objecting to this amendment.

Mr. FERGUSON. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. FERGUSON. Was there any evidence before the committee that the several public utilities had in mind these particular contracts when they fixed the rates?

Mr. LA FOLLETTE. No; there was no evidence before the committee at all to justify doing anything about this. This was done in executive session. But, as the Senator knows, the fact is that when the war started loads of this size were not in the experience of either industrialists or commissions, and so the published rates have nothing to do with enormous prime load factors such as are involved in this situation.

Mr. FERGUSON. Then we can assume that the contracts entered into were not such contracts as the public utility commissions were intended to regulate.

Mr. LA FOLLETTE. That is true. The published rates were never designed to cover such contracts. Before I finish I shall show the Senator a load factor which he will immediately recognize as something extraordinary.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. VANDENBERG. I do not believe it would be possible for a commission to establish a standard rate for the kind of loads that are involved in this situation. I do not believe there is any way to arrive at a just result except by negotiation.

Mr. LA FOLLETTE. I think the Senator has made a very important point. The published rate must apply to every consumer who falls within the category of a consumption established. But these are special cases. They do not look at any contract for less than a 1,000-kilowatt load, and many of these contracts are for enormously greater loads. We can find out whether the charge is excessive or not only after we have had experience. We can go back and renegotiate the contract. I reiterate, Mr. President, that there was not one scintilla of evidence before the committee to justify this proposal, and there has been no presentation of any facts to show that any private utility company has been injured or aggrieved by the renegotiations which have already taken place.

Mr. BURTON. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. BURTON. I was absent during a portion of the Senator's statement. The language of the amendment is:

> (E) Any contract or subcontract with a common carrier for transportation, or with a public utility for gas or electrical energy, when made in either case at published rates or charges filed with, or fixed, approved, or regulated by, a public regulatory body—

As I understand, many charges are filed with regulatory bodies which are not regulated, fixed, or approved. This language would let them out from under renegotiation if the rate were merely filed. Is that not correct?

Mr. LA FOLLETTE. The Senator is correct. All they would have to do would be to file the rate with a commission somewhere, and they would be out from under renegotiation before the commission had time to turn around and look at it.

Mr. RADCLIFFE. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. RADCLIFFE. In many cases, when such rates are filed they stand unless disapproved. That particular language has reference to transportation rates.

Mr. LA FOLLETTE. Not the way it is written.

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. GEORGE. The language relates only to the transportation of passengers or freight. I offered that amendment myself. It appeared in the hearings before the committee that the War and Navy Departments do not undertake to renegotiate contracts made with any railroad, commercial air line, or other utility, when such rates are fixed. I offered that amendment to relate only to transportation, because I had a statement, which I regarded as authentic, to the effect that the method of fixing rates, for example, on the commercial air lines is merely to file a schedule of rates. If no objection is made, the rates finally become effective.

Mr. LA FOLLETTE. The Senator may have intended it to apply only to transportation——

Mr. GEORGE. I did.

Mr. LA FOLLETTE. I refer to the Senator's judgment. However, the way the language is drafted, it would appear to me otherwise, because it reads:

> Any contract or subcontract with a common carrier for transportation, or with a public utility for gas or electrical energy, when made in either case at published rates or charges filed with, or fixed, approved, or regulated by a public regulatory body.

Mr. GEORGE. It applies only in transportation cases. The draftsman simply merged the sections.

Mr. LA FOLLETTE. Whatever he did, the end result accomplished was to apply the provision to both transportation and other public utilities.

Mr. GEORGE. That may be so; but that was done by the drafting service. They were in separate sections.

Mr. LA FOLLETTE. I am not questioning the Senator's position on the matter, but that is the result.

Mr. GEORGE. I think the Senator will find, however, that there are no filed rates which become applicable in any case except in the case of transportation companies. I do not believe that gas and electric companies are regulated merely by permitting them to file their rates. That practice obtains only so far as transportation is concerned.

Mr. LA FOLLETTE. An examination of the 48 State statutes will reveal that they do permit rates to be filed.

Mr. GEORGE. That may be; but I was advised to the contrary. I simply wished to explain that that language is now applicable to all utilities, whereas it was originally intended to apply only in the case of transportation.

Mr. LA FOLLETTE. As I recall, the Senator's statement is 100-percent correct; but the way it came from the committee it applies to both.

Mr. GEORGE. That happened in the drafting.

Mr. LA FOLLETTE. The largest single contract is that for the New York aluminum plant of the Defense Plant Corporation, which uses in excess of 2,000,000,000 kilowatt-hours annually, costing approximately $12,000,000.

I venture the assertion that there is no similar contract anywhere else in the United States, and to apply the published rate to this company and let them out from renegotiation would result in excessive profits which I do not believe any Senator would care to try to justify on this floor.

Mark this: This single load is more than the total energy requirements of the Wisconsin Electric Power Co., which serves the cities of Milwaukee, Racine, Kenosha, and surrounding areas in Wisconsin, comprising one of the highly industrialized sections of my State. This one contract in New York is for more energy than is required in all those important industrial cities in the State of Wisconsin. Yet, because the New York Commission has published some rates dealing with peacetime situations, the Senator from Maryland would eliminate that and all these other contracts from renegotiation.

The New York contract involves the use of more electric energy than is produced in any one of 20 States, including such States as Colorado, Florida, Kansas, Maine, Oklahoma, and Rhode Island. This one plant is taking more power than is produced in any one of those States. Does any Senator believe there is a published rate to cover it?

Other war power contracts, some of which involve possible renegotiation, provide for the purchase of enormous quantities of energy, ranging from 300,000,000 to more than 1,000,000,000 kilowatt hours a year, with annual charges of millions of dollars. Even the small war plant contracts of, say, 5,000 kilowatts, cover the purchase of as much electricity as is consumed by the residential consumers of cities with 100,000 population, if not more.

In normal times, industries having loads of the magnitude involved in these war contracts seldom, if ever, purchased their power under published rates. It has been established procedure for industries considering the location of an industrial plant of the size of these war loads to undertake negotiations with two or more utility companies for a rate contract. In many States the rates finally agreed upon by the industry and the utility are not required to be published, but are usually incorporated in special contracts which may or may not be filed with the State commission.

When negotiating contracts for the purchase of large blocks of power, prospective industrial consumers have always used the competitive threat of installing their own power-generating facilities in lieu of purchasing service from

the utility. Such alternative, of course, could not be used either by industry or by Government during the war, due to the lack of critical materials for such generating facilities.

In other words, normal factors of competition, or the normal effects of the possibility of a huge user of industrial power to establish its own plant, was a factor in negotiating the contract. Those factors are out now, and were out at the time the contracts were entered into, because of the shortage of critical materials.

Obviously, also, the normally protracted peacetime negotiations of such contracts, usually requiring the use of consultants and detailed cost studies, could not be undertaken by the Government during the early part of the defense and war program. It was entirely natural, therefore, for the various war agencies to concentrate upon getting immediate service at any cost, rather than risk delay in production because of excessive rates. But the contracts that were made should now be reexamined, and, when necessary, renegotiated. They should not be eliminated from renegotiation by an act of the Senate without a scintilla of evidence before the Finance Committee to justify it.

Even where the utilities have published rates applicable to loads of the sizes created by these war establishments, such rates under war conditions may substantially exceed the costs of service, plus a reasonable profit. This arises from the fact that today the utilities are generating and selling proportionately more electric energy from their facilities than was ever contemplated under normal operating conditions.

In other words, the prime demand upon the utilities has been stepped up, and it is the primary load factor that represents the cream of the business. That is the lush business of a utility. The secondary power is the power which is always sold cheaply. But it is the prime load which is the one which produces the greatest return. Because of expenditures of billions of dollars all over the United States the demand upon utility companies has risen to such a point that their primary load factors have reached a level which was not contemplated at the time the published rates were promulgated.

The addition of these large war loads has thus served to bring substantial amounts of additional revenue not anticipated when the published rate schedules were designed. This condition reduces the cost of the product or service. The situation in all respects is similar to the lower unit costs experienced by general manufacturing and industrial concerns during the war as a result of their operating at full capacity and for long hours. Consequently, review and renegotiation of electric utility contracts, even when made at established rates, is just as necessary as for other war contracts.

Furthermore, the fact that a rate is published or filed with a State utilities commission does not necessarily mean that such rate has been approved or analyzed by the Commission or its staff.

In the 156 contracts approved by the Commission, it has accepted the application of the lowest published rates where they properly fitted the conditions of the load involved and were found to be consistent with the utilities' costs plus a reasonable profit.

In other words, where the published rates promulgated by the Commission have been found to be equitable and applicable, the Commission has not disregarded them. They have done so only in cases where there was excessive profit, or where there was a huge load factor due to war. That is the milk in the coconut, Mr. President.

Many war loads were doubled or tripled in size after the contract was signed, or even after service had been taken for a year or more. These changed conditions may easily make the rate established in the original contract excessive for the increased loads, and consequently make it necessary for the original contract to be renegotiated.

Senators are all familiar with the war plants which have grown by leaps and bounds. Some of them have been trebled in size. It must be clear that the original rate fixed for the original unit of the plant on a load factor which has trebled or quadrupled is bound to result in exorbitant profit. Yet the amendment now before the Senate would prevent the Government from renegotiating such a contract and perhaps get back these excessive, extortionate profits. Such an adjustment would conform with common peacetime practice of utility companies in the handling of smaller industrial loads served under published rate schedules when the load characteristics change and make a lower rate applicable. The Government should not be denied the normal privilege of changing rates when loads and other controlling conditions change. Yet that is what will be done if this amendment should be adopted.

Published rates are usually fixed by State utility commissions in the field of domestic and commercial use, as a result of periodic rate proceedings; but utilities are constantly making and filing special rates and contracts for service to their large industrial customers. Similarly, while service and rates to domestic and commercial users may be subject to close regulation by State commissions, this is not usually true with respect to large power rates and rates to Government establishments. Utilities, with the general approval of State commissions, have always operated on the principle that rates for large power loads must be fixed at that level, above out-of-pocket costs, necessary to get the business and that, through this practice, the general public, as represented by the small domestic and commercial users, is benefited. Thus, regulation in the generally accepted sense does not apply to the rates of these war power contracts.

The strongest reason for not exempting utility contracts from Federal statutory renegotiation lies, however, in the fact that only 6 of the 48 States have public-service commissions equipped with the necessary legal authority to order the refunding of such unjust and excessive overcharges as may have been levied by electric utilities under existing contracts. In other words, in only 6 States are the commissions empowered to require refunds. Forty-two State commissions do not have such power. Yet it is sought here to justify eliminating these contracts which are already shown to be producing excessive or exorbitant profits, when 42 States in the Union cannot do anything to protect the Government even if they wanted to.

It is obvious that if, as there is strong reason to believe, many of the 530 existing war power contracts contain rate provisions which are not in accord with the lowest published schedules, the Government clearly should be entitled to refunds representing the amount of the excessive and improper over-charges. Similarly, if the Government has made excessive payments for the special facilities required to render service, it should be able to recover the amount of the excess.

But a careful examination of the State statutes indicates that only six of the States—Arizona, California, Maine, New Hampshire, Pennsylvania, and Washington—have created utility commissions endowed with the necessary authority to determine the amount of such past over-charges and require the utility to refund the amount of the excess.

Nor should it be forgotten that eight of the States, in all of which important war plants and establishments are located, do not have State commissions with authority to regulate electric utility rates and charges.

It is, therefore, clear that the State utility commissions generally do not possess the statutory authority necessary to enable them to assist the Federal Government in the recovery of excessive charges, even if existing contracts should be proved to contain rates and other provisions which such commissions would determine to be unreasonable.

The necessity for statutory authority to renegotiate war power contracts and require refunds of past excessive profits has been repeatedly demonstrated by the experience of the Commission to date with these contracts. This experience has revealed that changes in the contract rates, terms, and conditions have been necessary in four out of five contracts reviewed, and refunds have been required in a number of them. Among these cases may be cited the following examples:

In December 1942, two shipyards, one of which was privately operated and the second operated by the Maritime Commission, were combined as to electrical service and both operated by the Maritime Commission. These shipyards, located in Portland, Maine, are served by the Central Maine Power Co. A review of the contracts and load conditions in 1943 revealed that no recognition had been given to the application of a proper rate to the combined loads and that not only was a substantial refund due to the Government but that the rate for the future should also be lower. Numerous conferences with the utility representatives brought no results. It was only after the utility company was advised

that, unless a settlement was made in this matter, the contract would be referred to the Renegotiation Board of the Maritime Commission for action that the utility company agreed to refund to the Government $244,000, representing the excessive charges from December 1942 to December 1943. The lower rate will represent a future saving to the Government of approximately $270,000 a year on service to these two shipyards alone. Yet, if this amendment shall be adopted, the renegotiation of these contract situations will be prevented.

Fort Eustis, Langley Field, Fort Monroe, Camp Pickett, Fort Belvoir, and Camp Patrick Henry are all served by the Virginia Public Service Corporation. The War Department had paid for the installation of the facilities necessary to provide service to these establishments. An analysis of the situation revealed that the company was using some of these facilities for general system service, that other charges made were unreasonable, and that the rate charged for service was excessive. In other words, the Government paid for the facilities for these camps, put up all the money, and yet it was found that the company was using a part of the facilities installed and paid for by the Government to supply its private consumers. While the War Department had exempted these contracts from renegotiation, the case was taken up with the company, which has been cooperating with the Commission in other matters. At a recent conference, the company agreed to refund approximately $110,000, reduce rates to the camps that will lower the cost of energy by $100,000 annually, in addition to making other changes in the contract that will save the Government $46,000. If the company had resisted making the refunds and rate reductions thus determined to be just and reasonable, the War Department's exemption of these contracts from statutory renegotiation, or the adoption of the Radcliffe amendment, would permit the company to continue to make excessive profits on these war loads. This is an exceptional case and it is reasonable to expect that the great majority of the utilities, or their controlling holding companies, in the absence of statutory renegotiation authority, will resist making refunds or reducing rates to Government war plants and establishments.

Of course they will. If the Senate takes action to strike down the power of the Government in this field, of course they will resist renegotiation of their contracts and the refunding of exorbitant and excessive profits.

Mr. AIKEN. Will the Senator from Wisconsin yield?

Mr. LA FOLLETTE. I am glad to.

Mr. AIKEN. I assume the Senator is talking about paragraph (E), on page 181?

Mr. LA FOLLETTE. Yes.

Mr. AIKEN. The language is "any contract or subcontract with a common carrier for transportation," and so forth. Does that cover any regular steamship line? Does it include any of the contracts with steamship lines which have regular routes and run on regular schedules?

Mr. LA FOLLETTE. I do not think it would, though I am not positive. I know that the inclusion of the words "common carrier" was intended to apply only to the railroads, but whether the language as drafted covers all other public utilities, I could not answer.

Mr. AIKEN. This would apply only to railroads and utilities?

Mr. LA FOLLETTE. Public utility companies and natural gas companies.

The Federal Power Commission's experience in the analysis and adjustment of the hundreds of electric utility contracts for service to Government war plants and establishments indicates that adoption of the proposed amendment exempting the greater number of such contracts from statutory renegotiation would be unfortunate and inequitable.

Mr. AIKEN. Would the amendment cover trucking companies and bus companies?

Mr. LA FOLLETTE. I think it would.

Mr. AIKEN. If it covered bus companies, there would be no renegotiating of the terms of their contracts?

Mr. LA FOLLETTE. No.

Mr. AIKEN. I have heard there was some difficulty in the matter of bus transportation at certain camps on the Atlantic coast. In case unsatisfactory contracts were made, such as at Bainbridge, Md., would this provision of the bill prevent the renegotiation of such contracts?

Mr. LA FOLLETTE. It would, unless the contract was made at published rates or at rates filed with the Commission. Of course, to my mind that does not eliminate the difficulty in the situation the Senator points out, because my whole contention is that the published rates were never designed to cover the present extraordinary conditions of war.

Mr. MAYBANK. Mr. President, will the Senator be good enough to explain to me what are "published rates"? The public power companies, for instance, have one rate for one and another for another, all agreed upon with the war industries that have developed. On the other hand, the Charleston Navy Yard makes a long-term contract with the power company in Charleston, which in turn buys from the State-owned public utility, which was built at public expense. I have been unable, through the Federal Power Commission or otherwise, to ascertain what a published rate is. If the Senator will explain that to me, I shall appreciate it.

Mr. LA FOLLETTE. I assume it means the rates which are published by the State utility commission, the standard rates. It is the defect of this amendment. The standard rates applicable to normal peacetime consumption of residential or commercial or industrial users are not designed to take care of these huge load factors of prime demand, and that is where the excessive profit comes in, if the contract has been negotiated in the first place at a published rate.

The Senator probably was not in the Chamber at the time, but I pointed out that one aluminum plant in New York is consuming more power than is produced in any one of 20 States in the Union. Of course, there was not any published rate which would apply to an extraordinary situation of that kind. This contract produces $12,000,000 a year to the utility.

Mr. MAYBANK. Would the Senator term that a special rate?

Mr. LA FOLLETTE. No; I am talking about the effect of the amendment. A Senator who votes for this amendment votes to apply the published rate. All the contractor has to do in order to get from under renegotiation is to enter in at a published rate, or one which has been filed, even, and not published by the State utility commission.

Mr. MAYBANK. I may say to the Senator that I have no intention of voting for the amendment.

Mr. LA FOLLETTE. I am delighted to hear that.

Mr. MAYBANK. But I should like to have someone answer the question I asked, to which the Senator so ably replied, but his reply was not a complete explanation, because there are special rates between defense plant corporations and this company and that company and the other company in the South. Many of the companies are owned in Wall Street, and there are special rates all the way down.

Mr. LA FOLLETTE. Yes; and if the amendment shall prevail, although those contracts were made by subsidiaries of the Government itself, the contracts cannot be renegotiated, provided the contract terms are made under published rates, or even rates which are specially filed with the commission of South Carolina. The commission would not even have to pass on them or approve them.

Mr. MAYBANK. That was my understanding.

Mr. RADCLIFFE. Will the Senator from Wisconsin yield?

Mr. LA FOLLETTE. I yield.

Mr. RADCLIFFE. The Senator will recall that a few moments ago the Senator from Georgia explained the use of the word "filed." I think his explanation was very clear and very definite. If the Senator from Wisconsin thinks that additional language is necessary to carry out the point which the Senator from Georgia made, I am sure the Senator from Georgia would agree to it.

Mr. LA FOLLETTE. I am opposed to the whole amendment, and I do not believe that a majority of the Senate of the United States will go on record to eliminate these public utilities from negotiation of these extraordinarily profitable contracts merely because there are some States which have regulatory State commissions, which are not primarily interested in these Government contracts.

It is not their job to perform this function. It is their job to see that the residential consumer, or the ordinary commercial or industrial user, gets a fair and reasonable rate, but the power demands we are now discussing are huge and they are prime demands. I keep reiterating that, because that is where the profit is in the utility business, that is, in the prime load. Some of these loads run 24 hours a day, 7 days a week, 365 days in the year. Yet, under the amendment of the Senator from Maryland, merely because a State promulgated or published a rate schedule sometime in the past, all these contracts would be eliminated from renegotiation, providing the contractors

conformed to a published rate, or one filed with the commission.

Mr. MAYBANK. Mr. President, I might add that there is a 100-percent load factor in the war organizations to which I have referred, 24 hours a day.

Mr. LA FOLLETTE. Yes; and that is where the utilities make the money.

Mr. MAYBANK. Of course, the State authorities cannot adjust the negotiations that were carried on between the Federal Power Commission, the Defense Plant Corporation, the public-utility companies in New York and elsewhere, clear on down into the smaller communities of the South and West, or wherever they may be.

Mr. LA FOLLETTE. The Senator is as correct about that as anyone could be.

Furthermore, the amendment would greatly interfere with the adjustment of rates and charges in contracts the final terms of which have not yet been agreed upon. It would unjustly discriminate against utilities whose war-power contracts have already been properly adjusted or renegotiated, and would unjustly enrich the utilities which have refused or resisted readjustments. In other words, there are companies which come in and, in a patriotic way, say "We did not know how much this was going to cost. It is more energy than we ever furnished to one consumer before in our existence. We did apply an excessive rate to this. We have an excessive profit, and we are perfectly willing to agree to it." They are the ones who will be penalized, but the recalcitrants who refuse to make any adjustments will be let out in the clear, if we adopt the amendment.

Mr. MAYBANK. Will the Senator yield further?

Mr. LA FOLLETTE. I yield.

Mr. MAYBANK. Permit me to say again that I thoroughly agree with the Senator that there are some very excellent power companies in my section of the country who have gone along 100 percent in the war. On the other hand, there are some companies, now in receivership, once owned by the Hopson group, still in Federal receivership, and what I want to do is to protect the good companies. We have good companies. Then, too, no one group should be exempted.

Mr. LA FOLLETTE. I am not entering any indictment of the utility business, or the people engaged in it. So far as I know, they have done a good and patriotic job, just as the great majority of those engaged in industry have. But now, after the Senate Finance Committee's action on yesterday, we have a bill before us in which it is proposed to maintain the renegotiation statute. The exemption of standard commercial articles has been eliminated. Retroactive provisions, so far as opening up agreements already entered into have been eliminated. Nearly all contractors will be renegotiated except the private utility companies. And this, Mr. President, is to be justified on the false doctrine of States' rights. It has no more to do with States' rights than it has to do with affecting the end of the war. States' rights are not involved here.

Mr. MAYBANK. Mr. President——

The PRESIDING OFFICER (Mr. ELLENDER in the chair). Does the Senator from Wisconsin yield to the Senator from North Carolina?

Mr. LA FOLLETTE. I yield.

Mr. MAYBANK. I should like to make the observation that, as the distinguished Senator from Wisconsin knows, I believe in State's rights.

Mr. LA FOLLETTE. Yes.

Mr. MAYBANK. But today in Washington there are representatives from my State trying to settle between the Federal Power Commission and the Defense Plant Corporation questions with respect to what charge should be made for electricity upon the largest industrial developments in South Carolina engaged in connection with the war.

Mr. LA FOLLETTE. Yes. It is not the responsibility of the State commission. I repeat now what I said earlier, that the State commissions, to my certain knowledge, because of what I know about the Wisconsin commission, are in dire straits so far as manpower, experts, technicians, and legal staffs are concerned.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. TYDINGS. May I ask the Senator if the renegotiation phase of these power contracts deals only with that part or type of contract which has to do with the Federal Government, or whether it deals with the rates generally as divorced from the Federal Government contracts?

Mr. LA FOLLETTE. It deals with contracts entered into directly by the Reconstruction Finance Corporation, or any of the other agencies, or those contracts in which the Federal Government has agreed to pay the cost of electrical energy.

Mr. TYDINGS. And it stops there?

Mr. LA FOLLETTE. It stops there.

Mr. President, as I said a moment ago, it has been attempted to justify this amendment on the false doctrine of States' rights; that renegotiation of public utilities is an interference on the part of the Federal Government with the jurisdiction of the State utility commissions. I deny all such contentions. I say, in the first place, that the State utility commissions do not have primary responsibility for this task. Their job is to see that there are fair and reasonable rates fixed for private consumers under ordinary circumstances. Secondly, they are handicapped because they have suffered an attrition of their manpower just as every other State and local agency has suffered it. Third, these are extraordinary contracts in which the cost of electrical energy is just as much a cost of the aluminum as the clay, or the bauxite, or the labor, or the machine tools, or anything else that goes into it. It is proposed to say to the men who now are flying planes on the battle front, when they come home, "Oh, yes, we renegotiated the cost of the bauxite, we renegotiated the cost of the aluminum, we renegotiated the cost of the engines, we renegotiated the cost charged by the instrument makers and the tire makers, but we adopted an amendment to eliminate from renegotiation the cost of the electrical energy which went into the making of the aluminum of which the planes were built." Does that make sense? Is it justified? I say "No"; and, Mr. President, I want a record vote on this amendment.

Mr. President, I wish to say in conclusion that I do not believe the adoption of the provision in question would be beneficial to the State commissions. I do not believe its adoption would be beneficial to the power companies. It is quite as important that the men and women who come back from overseas service cannot point the finger at utility companies and say, "They made blood money out of this war" as it is that they cannot point the finger at any other manufacturer or producer of service which has gone into the production of our war matériel.

EXHIBIT A

On October 22, 1942, the President also sent to Leland Olds, Chairman of the Federal Power Commission, a letter and outline of procedure, the texts of which follow:

"I would like the Federal Power Commission, after consultation with the procurement agencies and the War Production Board, to establish the procedure, outlined in the attached memorandum, to effectuate the policies set forth in my letter of September 26, 1942, addressed to the War Department, Navy Department, Maritime Commission, Defense Plant Corporation, Federal Housing Agency, and the War Production Board.

"OUTLINE OF PROCEDURE FOR PURCHASE OF POWER FOR WAR PLANTS AND ESTABLISHMENTS

"1. Each agency directly or indirectly responsible for power procurement to designate a power procurement officer to handle all contracts and arrangements for electric power as hereinafter provided.

"2. Each agency to direct its representatives to report promptly to the power procurement officer each proposed procurement of power, in excess of a reasonable minimum, which involves Government approval or any Government obligation. Such reports to include all essential facts in accordance with forms approved by the Federal Power Commission.

"3. Power procurement officers to refer such reports promptly to the Federal Power Commission, together with proposed contracts, for determination whether cheaper power supply is available and, if so, how it can be delivered. Federal Power Commission to issue necessary orders after consultation with War Production Board as to priorities and allocations.

"4. Federal Power Commission to determine whether proposed rates and conditions are reasonable and, if unreasonable, to fix proper terms and otherwise cooperate with power-procurement officers in effectuating arrangements necessary for securing power on best possible terms.

"5. Review and renegotiation of existing contracts to be in accordance with above procedure."

EXHIBIT B

WAR POWER CONTRACTS—SUMMARY OF SAVINGS EFFECTED BY FEDERAL POWER COMMISSION IN COOPERATION WITH PROCUREMENT AGENCIES AND ESTIMATES OF ANTICIPATED SAVINGS THROUGH CONTINUING REVIEW AND RENEGOTIATION

I. Summary of savings—contracts, reviewed, readjusted, and approved

Demand—kilowatts	1,233,137
Annual use—1,000 kilowatt-hours	8,628,187
Annual charges	$45,557,712

I. Summary of savings—contracts, reviewed, readjusted, and approved—Continued

Annual savings to government: [1]	
Rates	2,767,059
Fuel and other clauses [2]	259,005
Total	3,026,064
Other savings—nonrecurring:	
Nonrefundable connection charges	491,750
Initial demand charges	215,141
Total	706,891
Contingent savings: [1 3] Cancelation or refundable connection charges	4,317,283

II. Estimated anticipated savings—contracts not yet reviewed or approved

Demand—kilowatts	5,225,000
Annual use—1,000 kilowatt-hours	35,500,000
Annual charges	$206,000,000
Annual savings to Government	9,500,000
Contingent and nonrecurring savings	11,000,000

[1] Does not include estimated savings of $1,084,737 in rates and $724,981 in facility costs for 64 War Department contracts now being processed by the Commission.

[2] Based on first year's operations.

[3] Based on cancelation at end of 2-year period.

Mr. RADCLIFFE. Mr. President, I rise in support of the committee amendment which I had suggested and advocated in committee. I wish to say a word in regard to the history of this situation. When the emergency price control bills were passed there was express language incorporated in them which exempted any such regulation of rates. When the Renegotiation Act was passed it contained no such language, but there was a provision that Federal departments could exempt certain contracts from regulation. In accordance with that idea the War Department issued an order which is in substantial accordance with the language of the amendment we have before us now as the committee amendment. That order provided that there should not be renegotiation of rates of utilities and certain other kinds of companies. The Navy Department has followed out the same policy.

Mr. President, it is always possible when considering a matter of general policy to take up certain special instances and cite them as reasons why a general policy should be followed, and I respectfully suggest that in this case we have decidedly a matter of general policy and that a very serious one.

There is another phase of history involved here. What has been the history of the last 50 or more years as to rate regulation? It has been decided, whether wisely or not, that there should be a certain regulation of utility and other kinds of corporations. Statutes have been passed, organizations have been created, which for years and years have functioned on that basis. The theory has been that these questions of rates and regulations are so intricate and so involved that special machinery should be set up to consider them, and that then action should be taken deliberately as the circumstances would seem to warrant in any particular case.

Mr. President, it is a little broader than that. The Senator from Wisconsin stated a little while ago that this provision has nothing whatever to do with States' rights. I cannot agree with that statement. We know, of course, that there are some regulations which lie within the power of State bodies and not of the Federal Government. We do have, and we should retain even in wartimes, a proper respect and regard for the distinctions between the Federal Government and the State governments. What would happen if the amendment were to be defeated and a policy based upon its defeat be carried out? It would mean that the renegotiation board—it is not a public service body, nor is it, I assume, equipped with any special facilities—would attempt to take up for renegotiation very intricate contracts involving rates. A careful study of the whole situation would be necessary. I do not know whether or not the board has experts who are qualified for that purpose. If not, I assume such experts could be found, but the fact remains that very far-reaching and very difficult problems are involved.

Mr. President, the suggestion has been made that such careful studies are not at all necessary; that the matter can be settled around the table. That all that is necessary to be done is for certain officials of the Government and certain representatives of the power companies to get together and sit around the table and decide questions. Is that the way that grave factual matters should be settled? That is not the way your utility rates are selected. In a State where there is a regulation of rates there is a careful study made by experts, as there should be, of the facts involved, and then a decision is reached, based upon that study.

Suppose the policy which the Senator from Wisconsin enunciated were followed? What would be the result? In many cases we would have the Federal Government doing something which, according to law, is clearly within the province of the State governments. Assuming that there is not a constitutional objection in the way, what situation do we reach? Does it mean that the renegotiation board shall supersede all powers of the States in regard to these particular matters? Does it mean that the Federal and State jurisdictions are coordinate? Does it mean that the Federal board is an appellate court? Can we see ahead of us anything but confusion if we inject a board, giving it duties and responsibilities, or rather attempting to give it duties and responsibilities, which by law and by practice for years and years have been exercised by other bodies, whether State, Federal, or local? No one can foresee the difficulties which may arise. We cannot foresee what constitutional questions might become involved, or what confusion might result. All of us are agreed that the Federal Government should save everything that it is possible to save. The present time is one when economy is necessary, and every proper step should be taken with respect to anything which will result in economy, provided such steps are taken in a proper way.

Let me remind the Senator from Wisconsin that there are some exemptions from renegotiation; the pending amendment and amendments previously agreed to today are not the only exceptions.

No one would say that even in furtherance of a war policy the Government should get a cut rate. The Government is entitled to the same rate any individual has, no more and no less. Of course, if there is a graduated scale—and in certain cases there should be a graduated scale—that is a different proposition.

I take the position, and I urge it as strongly as I can, that the Federal Government does not have the right to insist that it be preferred over anyone else. It is not entitled to a cut rate. It is entitled to the same consideration, and no more, which any individual or corporation receives.

Let me give an illustration of what might happen. The Senator from Wisconsin has pointed out certain large contracts. But that is not all the story. This power to regulate might theoretically affect almost any consumer in the United States. At least, that is a possibility. Let me explain what I mean by that. The Renegotiation Board would not be infallible. Certainly, if the members of the Board were to sit around a table and consider such matters, as has been suggested, and if in inadequate proceedings attempts were made to solve questions which are based on grave and complicated factual matters, certainly that would not be the proper way for the Board to proceed. But no matter what its method might be, regardless of whether or not it took action only after careful and involved study, it has vastly important decisions to reach. Let us assume that the Board had the facilities with which to make all these involved and highly intricate studies, and let us assume that after making such investigations it reached a certain conclusion. Let us assume that it then decided to reduce the rate by one-half or one-third. We know that electric power or any other product of a utility costs money to produce. There is of course some point below which the rate cannot be reduced without involving serious loss to the company itself.

Let us assume that in the case under consideration the Board, believing that it was doing what was best, regardless of what its methods were—and I assume it would want to use sound methods—came to the conclusion that the rate should be reduced by one-half, one-third, or one-tenth of what it was. What would be the result? The result might very well be that every other consumer would have to pay an additional amount to even up for the cut rate to the Government. Why not? Someone must carry the load and all of it.

Mr. VANDENBERG. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. McCLELLAN in the chair). Does the Senator from Maryland yield to the Senator from Michigan?

Mr. RADCLIFFE. I yield.

Mr. VANDENBERG. I do not understand that the system would operate in any such manner at all. We are considering the renegotiation of the profits made under a contract. If the operation is conducted at a loss, there would be nothing to renegotiate.

Mr. RADCLIFFE. Mr. President, I say to the Senator that that question is a more intricate one than it may seem on its face. What are the profits? In the case of a utility company serving both corporations and individuals, how is it possible to ascertain, without a careful study and analysis of the general operations of the company, what the contract in question should cost? That question could not be decided with respect to just one contract, nor could the proper apportionments be made, without going into the whole question of rates and the general operations of the company.

I have never had any connection with a utility company as an officer, stockholder, or in any other capacity except as a purchaser of power. My experience with utility companies has not been an intimate one. But my understanding is that the study as to what should be proper rates involves many facts. I have seen studies made requiring months and months and months of time. My belief is that a guessing policy would be required, unless intricate and prolonged studies were made before rates were authorized. If the corporation rates determined after an inadequate study should happen to be less than sufficient to pay for the cost of operation of the company, the other consumers would have to pay higher rates, in order to prevent a loss to the company which, it might be, should not be endured.

Mr. President, I am as heartily in favor as is anyone of anything which would save money to the Government; and the Government should economize whenever feasible. But because certain rates which someone may think too high or too low are in effect, must we strike down the legal and business standards which have been in existence for 50 years? May we say to the States, "Your power is superseded and overthrown. Whether we have any constitutional authority or not, we are going to brush you aside." Certainly not.

If the rates under consideration are not regulated by the Federal Government or by the States or by any other local or public authority, then everything I have said would not apply, and there would be a full and complete right of the Federal Government to renegotiate. But in cases in which a system has been set up and a practice established, based, as I have said, upon the experience of 50 more years, I feel that the policy should not be set aside except in a lawful manner. I feel that we should not take a step which leads to confusion.

Let me cite the illustration of a rate for power furnished within a State, and regulated by the State board, whatever it might be. Suppose the Federal board were to step in and say, "We are going to regulate the rate." Suppose the State board did not agree to have that done. Suppose the State board later saw fit to establish a rate of its own. What would stop the board from doing so? The rate would be established according to law. Furthermore, in many cases it is illegal for a State board to discriminate in its dealings with customers, except according to graduated scales. In such case would or should the State board sit by and see something illegal done?

Certainly we may assume that the boards are made up of men just as honest and just as conscientious as the men who would be on the Federal board. Suppose a State board honestly believed that the rates were incorrect, and suppose it started proceedings to investigate the situation, and subsequently directed that the rates be set aside. Should anyone criticize the State board for doing so? What else should it do?

Mr. President, I am questioning the wisdom of needlessly attempting to brush aside standards and practices which have existed for many years, of attempting to say to the Federal Government, "Step in and handle this job, although by law and custom the power is in the State."

Right here I desire to take serious exception to the doctrine, if it is advocated by anyone, that it is within the province of the Federal Government to step in and assume functions performed by a State whenever the Federal Government thinks the duties are not properly performed by the State. If that were proper, it would be equally proper for a State to step in, whenever it thought the Federal Government was not doing a proper job, and to assume Federal functions.

Mr. BONE. Mr. President, will the Senator yield?

Mr. RADCLIFFE. I yield.

Mr. BONE. Is it the view of my able friend, the Senator from Maryland, that the regulatory systems to which he has referred, which go back 50 years or more, have served adequately to protect both the public's and the security holders' interests? I do not so read the record, in the light of the Federal Trade Commission's investigations of utility companies, including such outfits as Middle West Utilities. I think one of the Middle West Utilities cases ultimately wound up, after the company had been touted as one of the greatest business institutions in the world, by having a $1,000 bond produce 80 cents for the investors.

In many cases the regulatory commissions failed to protect investors. Probably $2,000,000,000, $3,000,000,000, and more was lost in the crash of these companies under State regulations.

I will go a step further. We have heard much about taxation. I am frank to confess that I cannot understand why this body or the other House should single out power companies for some specially tender sort of treatment. Today the position of the private power utilities of this country is that they should be—and they probably will be—permitted to pass on to the consuming public every penny of taxes they pay, so that they, in the war crisis, with the life of the Republic at stake, will be collecting from the consuming public every penny of corporate taxes they pay to the Government; and at the same time they will boast, through high-priced advertising, that they are great war taxpayers. That is the most monstrous piece of buffoonery I have ever seen, and I have been in public life for a long time.

I think the time has come for us to be a little realistic about this thing and stop making private power companies sacrosanct. They are not. In my judgment, State regulation has a great many disadvantages which have been revealed by the cold, hard, practical experience of those who have dealt with that problem.

Forgive me, if I take a moment more. I have seen rate bases set up. I do not know whether my able friend has seen that process. I have seen engineers reach into metaphysical realms and produce phantom values and pump them into a rate base on which the innocent and outraged public had to pay dividends.

In my section of the country a great Army base was getting power from my city at the rate of about 4 mills a kilowatt-hour. Three or four years ago I asked the War Department to give me a breakdown of the figures which the Federal Government was paying private power companies for power in Army bases. Those prices run up to 10 cents a kilowatt-hour. That thing would go on today, if there were not a check on it.

These utilities have no right to take advantage of the Government because a State regulatory body is sloppy or careless in its work. In a crisis in which we are using up the lives of our boys there is no private business under the flag that is entitled to special consideration. A contract is a contract. If there is too much profit being derived from a Government contract, it is being sweated out of the Federal Government, and in turn we are sweating it out of the taxpayers with bills such as this.

I am sorry if I have taken too much of the Senator's time. I do not like to see a blanket defense of State regulatory systems on the theory that they fully defend the public interest. Frequently they do not defend the public interest. The public interest has been outraged by many of the solemn decrees of State regulatory bodies dealing with valuations and rates.

Mr. RADCLIFFE. Mr. President, I appreciate the comments of the Senator from Washington. I know that this is a subject to which he has given very careful consideration. I am not attempting to make any defense of State regulatory bodies. To my mind that is not the issue before the Senate. If we feel that State regulatory bodies are not doing their job, there are ways to deal with that subject, by constitutional amendment or otherwise. If we feel that State regulation is not adequate—and let me say, in many respects, at least, it has been sufficient—we should not get at this matter in a casual, indirect manner. We should go about it in an orderly way and overhaul and change our regulatory law and practices both as to the Federal and State Governments. But it should be done in a proper way, and not through the back-door method that is here proposed.

Mr. WILEY. Mr. President, will the Senator yield?

Mr. RADCLIFFE. I yield.

Mr. WILEY. I am sorry that I am not a member of the Finance Committee. Perhaps I should rejoice that I am not.

I did not hear the entire discussion, but from what I have heard, I have understood that the situation might be concretely put in this way:

Let us assume that a utility company serves 1,000,000 people, and that a reasonable net return on its investment would be $1,000,000, and that rates are fixed accordingly by the States. A great emergency arises. War comes, and the Federal Government needs more power in order to keep its war facilities in operation. It furnishes some of the money to the power company, and as the result of an investment, let us say, of $5,000,000 or $10,000,000, on the basis of the old rate there is a return to the company of $1,000,000. We then have a return of $1,000,000 which comes from the people it formerly served, and a return of $1,000,000 from its Government facilities. Everyone will recognize that the extra return of $1,000,000 is excessive. As I understand my colleague, his thought is that with respect to the contract which is made with the Government, which provides a return of $1,000,000, which is excessive, the Government should have the right to renegotiate the contract, but not to interfere with the rates which were previously in existence, which yielded the other $1,000,000 return.

Mr. RADCLIFFE. Let me ask the Senator from Wisconsin how it would be possible to renegotiate any contract, involving a return payment to the Federal Government, without automatically lowering the underlying rates. The final figure which is insisted upon by the Government and so fixed by it must be based upon some kind of rates. It follows by inference that the renegotiation leading to collection by the United States Government would contemplate a lower rate as a basis. It must be a lower rate, because a certain amount of power is furnished, a definite lower amount of money is received. So it is in final analysis merely a matter of computation as to what is the rate which the utility actually secures.

Mr. WILEY. If it is necessary to do that, then I think the Senator's conclusion is correct. The question in my mind is whether it is necessary to affect the rates which the ordinary citizen is paying, when it can be determined that an extra profit of $1,000,000 has been derived from the utilization of the extra investment. It seems to me that that is a separate contract which might well, as a war measure, be considered in connection with other matters to be renegotiated.

Mr. RADCLIFFE. The Senator must bear in mind that if that were done, the amount finally fixed upon might represent a rate which would be below cost of production. Unless the investigation is made on a very exhaustive basis, the members of the board who make such an examination must indulge in a certain amount of speculation; and it is clearly possible that the figure which they insist upon may rest upon such a rate which is below cost of production. The Senator realizes, of course, that that is clearly possible. In that event, who would really pay the difference, the company or the other consumers?

Mr. WILEY. I cannot agree with the Senator's assumption, because, taking the concrete example which I cited, in the first instance we assume that $1,000,000 is a fair return on the investment of the company as it was before the war. Because of additional facilities the company contracted with the Government, and, because of increased volume, made an extraordinary amount on the additional investment. The question in my mind is whether or not in wartime it is equitable and fair that such a contract be renegotiated. If such renegotiation calls for the establishment of new rates all along the line, then I think there is something to the point which the Senator makes. But I do not think that is necessary, any more than it would be necessary in the case of merchandise.

Mr. RADCLIFFE. Of course, the Senator realizes that in any study of that sort consideration and attention must be given to all of the operations of the company. We must bear in mind the hundreds of thousands of consumers who use the service. I do not see how we can say entirely definitely, "This much of the cost applies only to contract of the Federal Government. and we do not need to give any consideration to the other operations of the company, and their results." We must consider the operations of the company as a whole. Otherwise, it is a piece-meal job, an incomplete job, and a sloppy job in some respects.

If the whole theory of regulation is wrong, if the Senator from Washington [Mr. BONE] is correct, that the regulation of these companies should not be by State governments, that is a matter properly to be taken up through direct legislation, whether by constitutional amendment or otherwise.

Possibly the Senator from Wisconsin could suggest some proper way in which these specific contracts which he cites could be handled satisfactorily to him. But merely because we have certain instances in mind, we cannot know, until there is an exhaustive study, whether or not the profits are too large from the contracts under consideration. I do not feel that that is a justification for pushing aside the whole system of Federal, State, and municipal regulations which we have built up for years, and which are based very largely upon constitutional guaranties. If we wish to do it, let us do it in an orderly way, and not in this way.

Mr. BONE. Mr. President, will the Senator yield?

Mr. RADCLIFFE. I yield.

Mr. BONE. I do not want either of us to misunderstand the other. I take it that the pending tax bill is a war measure. It has nothing to do with creating or destroying any existing system of regulation. It is merely a measure designed to capture some more money for the Federal Government. It is not intended or designed to be a permanent institution. This bill does not upset State legislation or abolish it. It is merely a means by which we capture some more money for the Federal Government.

Mr. RADCLIFFE. Let me repeat the statement I made a moment ago. Suppose such negotiation were carried out, and the State regulatory body should consider it to be improper. What could it do, or what ought it to do?

Mr. BONE. The Senator may assert that it is not the most logical argument, but I know that many persons considered their rights to be invaded when their boys were taken for military service. Let me say to my distinguished friend that I regard the right of a man to own and control his own body as just as sacred a right as any property right under the American flag.

If this country has the moral, constitutional, and legal right to take the body of a boy and use it up to defend and preserve the Union, it certainly has every moral right to take the profits of any man, no matter whence they may be derived, or how he secures them. Those profits are no more sacred than are the lives of boys who are going to die by the thousands, and possibly hundreds of thousands. It is that moral view which impels me to say what I have said to the Senator.

It is very understandable why we do not stand up and denounce such use of a boy's body, because everyone knows that is one of the terrifying and necessary aspects of war. But I hear continually the defense of property, and we are setting it up against the life of the boy who is dying to defend that very property. Mrs. Bone and I can sleep on two little cots or a pallet of straw in one room if we thereby help to save the Republic. I for one weary of hearing the continual defense of profits as against the lives of boys who have died to save our system. Never again will they know the sweetness of the flowers and the beauty of the sunshine. I cannot understand why we should care too much what we do with men's profits in this hour of supreme peril for the Republic. We say on this floor, and every publicist in America is continually pointing out, that a great tragedy may overwhelm this Republic. If we lose this war everything worth while which has been accumulated for us since the birth of the Republic will be destroyed and lost. The Republic will perish.

Why should we be so thin-skinned in taking mere profits? We are not taking the corpus of property; only profits. These profits are certainly no more sacred than the boy who gives his last full measure of devotion in a swamp or on a blazing desert. There are moral considerations wrapped up in this bill.

Mr. RADCLIFFE. I agree with the Senator in general principle as to our primary duty to members of our armed forces.

Mr. BONE. I cannot see this problem in any way except perhaps as a shrinking on our part from doing everything which is necessary to save this Republic in its hour of deadly peril.

Mr. RADCLIFFE. I entirely agree with the general statement of the Senator from Washington. It is a humane

and patriotic doctrine. But how far would the Senator carry it? Would he brush aside State governments?

Mr. BONE. I would carry it far enough to save the Union. It cost the lives of a vast army of men at one time to save this Union.

Mr. RADCLIFFE. Would the Senator act on the principle that the end so justifies the means that any means used to secure the desired end would be justifiable? Of course not. There is a proper way to handle this matter. If we wish to change our general policy, let us take it up in an orderly and legal way. The Senator and I will make any sacrifice necessary to save our boys. We will push anything aside. But while doing so we should bear in mind that if there is another way of getting what we desire, we should not rush headlong into something when an orderly policy otherwise is available and sufficient.

Mr. BONE. Mr. President, I will not permit myself the luxury of such adjectives as "headlong" because our boys are now rushing headlong into the very mouth of hell itself. They are not asking any questions. They are rendering up their young lives to save this country. They are giving up their lives to save this utility property. Is such property more sacred than the lives of our boys? Yet we devote hour after hour on this floor to discussions about the right to have profits, and I think that at times the emphasis may be almost indecent. It transcends a man's capacity to understand it, because publicists, ministers, Members of the Senate, and Members of the House, and literally everyone in the country is pointing out that America stands at the crossroads of destiny, and the Republic itself may collapse if we do not win the war.

If that be true—and I think it is true—it seems to me that my view is well grounded. I have friends in my State who would like to have me propose amendments to this bill to exempt many enterprises from the scope of this bill. But they know that the war must be won.

Mr. RADCLIFFE. The reason for this proposal I think is perfectly obvious. There are many industries which have not been regulated and controlled as has been done in the case of utilities. The point I am making is, When we have set up a system and it has worked, why not stand by it? If we wish to change it, let us do so in a regular and orderly way.

A moment ago the Senator stressed consideration of human lives rather than of property. Why not consider both if feasible and desirable? I assume that a proper sense of patriotism will permit us, so far as it is possible to do so, to give consideration even to property rights. We need to do so. I do not feel we should turn our back on property rights irrespective of what may be necessary, merely because a voice has suggested such disregard, alleging unnecessarily, patriotism as the pretext. We should analyze and ascertain what is the proper way and the necessary way to preserve and protect property rights for ourselves and, of course, for the returning members of our armed forces.

Mr. BONE. There should be a proper balancing of sacrifices, some standard by which we can measure the sacrifice of men and property.

The veterans' organizations have repeatedly sent to Members of this body their requests—and I wish to use the language as near as I can recall it—that we "draft property as we draft men." There are Senators now sitting in this Chamber who are quite familiar with that plea. The veterans' organizations have said, "We demand that you draft property as you draft men." We know that under the Constitution that cannot be done, but as the able Senator knows, the only way that such a draft could be resorted to would be by taking profits. It would do no good to take a generator, for example. It could be taken, but that would not stop the war or win it. The profits, however, can be utilized to make more sure and certain a victory in war. The use of those profits should be as unstinted as the use of a boy's body. For that position I offer no apology to any man. I know we will pay a frightful price to win the war. I was one Member of this body to serve on the Munitions Committee, and my service on that committee led me to desire a system of taxation which would pay off the war as nearly as possible while we were fighting it. A man like Mr. Barney Baruch was not at all backward in making such a suggestion. We cannot do it with the present expenditures, but the principle is sound.

There is no reason for allowing certain people to escape the burdens which rest on other people. A man operating an aluminum plant has just as much right to have excessive profits as has the owners of a power utility. When distinction is made arising out of some of the obligations which the Senator has suggested, a distinction is made between those enterprises in the matter of war burdens.

Mr. RADCLIFFE. I agree with the Senator as to certain general principles. Possibly such operations should be regulated by the Federal Government. But such a plan is not before us. We have operated for years on another basis. The question is, If there is to be a change, how should it be made? Will we make the shift of policy in a well-considered, reasonable, and orderly way or by one which will certainly tend to lead to confusion?

I am quite confident that if the Senator from Washington were a member of a regulatory body in the State of Washington and he believed that the Federal Government was transgressing upon his authority as such State official he would feel it his duty to raise objections in a suitable way and to press them if necessary by court proceedings.

I do not know what the result will be if we upset what has been established for years and create some kind of coordinate or appellate body, even if not a body to supersede entirely the State regulatory bodies. Suppose both Federal and State boards claim jurisdiction and act accordingly. I think the point is a very serious one. There are ways by which the Government can be protected, but I decry and regret the attitude that because we are at war we must disregard constitutional prerogatives and constitutional requirements when it is not necessary for us to do so.

Mr. LA FOLLETTE and Mr. BONE addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Maryland yield, and, if so, to whom?

Mr. LA FOLLETTE. I thought the Senator had concluded.

Mr. RADCLIFFE. I do not desire to tire the Senate with a restatement of the many points upon which I have touched. I shall be very glad to try to answer any questions. I simply wish to state, in conclusion, that I am heartily in favor of anything that will save money; I am heartily in favor of anything that will help our soldiers, as the Senator from Washington has suggested; but I do not feel there is justification for the proposal, and I do not see the reason why we should at one fell swoop attempt to put aside the Constitution, for that is what it amounts to. That is potentially the case, and if that is potentially the case, we must regard it as binding upon us.

Mr. LA FOLLETTE. Mr. President, I have previously stated that I would ask for a yea-and-nay vote, but the chairman of the committee has suggested that we might take a preliminary test of the sense of the Senate on a viva voce vote. I am willing to do that.

I should like to say, in conclusion, Mr. President, that it would not be my interpretation that the rejection of this amendment would alter or change any of the rules and regulations which have been issued by the various renegotiating agencies.

Mr. GEORGE. Mr. President, I am very glad the Senator from Wisconsin has made that statement, because, as all members of the Finance Committee know, certain of the services have adopted regulations under which they do not enter upon the renegotiation of some utility contracts, and the elimination of this amendment would not have any effect on the existing regulations.

Mr. LA FOLLETTE. That is my interpretation of the situation. May I say, Mr. President, that I hope the committee amendment will be rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

Mr. WILEY. Mr. President, may I ask my colleague a question?

Mr. LA FOLLETTE. Certainly.

Mr. WILEY. Is it his understanding that those who want the amendment rejected should vote "nay" and those who do not want it rejected should vote "yea"?

Mr. LA FOLLETTE. That is correct, but I repeat that I hope the amendment will be rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

The amendment was rejected.

The PRESIDING OFFICER. The next committee amendment will be stated.

The LEGISLATIVE CLERK. At the top of page 182, it is proposed to insert:

(F) any contract or subcontract for the making or furnishing of a standard commercial article; or.

Mr. GEORGE. Mr. President, on behalf of the Finance Committee I ask that the committee amendment in lines 1 and

2, which has just been stated, be not agreed to. We will have to deal with these matters as we come to them in order to effectuate the final action of the committee.

The PRESIDING OFFICER. Without objection, the amendment is rejected.

The next committee amendment will be stated.

The LEGISLATIVE CLERK. On page 182, after line 2, it is proposed to insert:

(G) any contract with a Department, awarded as a result of competitive bidding, for the construction of any building, structure, improvement, or facility; or.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. GEORGE. Mr. President, I ask that the Senate next consider the amendment on page 184, from line 3 to line 6, and on behalf of the committee I ask that this amendment, which has been reported by the Finance Committee, be rejected. That will have the effect of restoring the House provision.

Mr. TRUMAN. Mr. President, may I offer an amendment to the amendment on page 184, beginning in line 3 and extending to line 6?

Mr. GEORGE. If the Senator will allow me to get through the committee amendments, I will go back and open up anything that may be desired.

Mr. TRUMAN. I thank the Senator.

The PRESIDING OFFICER. Without objection, the committee amendment on page 184, from lines 3 to 6 is rejected?

Mr. GEORGE. Now, Mr. President, I offer an amendment.

Mr. McKELLAR. Mr. President, before we leave the committee amendment to subsection (D), which has just been stricken out on page 184, may I ask the Senator if that carries out the recommendation of the committee agreed to yesterday?

Mr. GEORGE. Yes; and the rejection of the amendment restores the House provision. It gives discretionary, not mandatory, power in the reviewing board to exempt standard commercial articles.

Mr. McKELLAR. I understand that as a result of the action of the Senate the provision will be left as it appears in the House text.

Mr. GEORGE. It will remain as it appears in the House bill; and as it conforms to existing practice, so I am advised.

Mr. McKELLAR. I thank the Senator.

Mr. GEORGE. Now, Mr. President, I send to the desk an amendment to come in on page 182.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 182, before line 3, it is proposed to insert the following:

(F) Any contract or subcontract for durable machinery, tools, or equipment used in processing an article made or furnished under a contract with a department or subcontract but which is not incorporated in or as a part of such article. For purposes of this subparagraph the term "durable machinery, tools, or equipment" means machinery, tools, or equipment ordinarily having a useful life of more than 10 years; or.

Mr. GEORGE. Mr. President, this amendment speaks for itself. It provides a mandatory exemption in the case of "any contract or subcontract for durable machinery, tools, or equipment used in processing an article made or furnished under a contract with a department, or subcontract, but which is not incorporated in or as a part of such article. For the purpose of this subparagraph the term 'durable machinery, tools, or equipment' means machinery, tools, or equipment ordinarily having a useful life of more than 10 years."

This is the amendment in which the senior Senator from Massachusetts and the Senator from Ohio were interested, and the committee approved it.

Mr. McKELLAR. Will the Senator let me say that I am quite sure the committee recommendation will be agreed to, but the Senator would not feel offended, would he, if I should vote against it?

Mr. GEORGE. Oh, no; because, after all, it is the committee's action. I did not propose the amendment originally or at this time, but it was deemed to be a sound amendment, for the reason that in the case of durable goods the machine-tool makers, so to speak, are using up their market over a long period of years. In other words, many tools, many machines, many articles of equipment which are now produced for war purposes, with variations or changes, and in many instances without variation or changes, will be in actual use, say, for 15 years longer. So it was thought proper that that fact, that is the blocking of their own market, should be taken into consideration and that such contracts should not be renegotiated because the products they are making now will flood their markets after the war. That is my understanding of the reason back of the amendment.

Mr. McKELLAR. I understand that, but I wonder if probably the makers of the machine tools have not taken that into consideration in fixing their prices to the Government for the manufacture of the articles.

Mr. GEORGE. I do not know as to that; I cannot answer that question.

Mr. TAFT. I should simply like to say that they were renegotiated in 1942, and if they did take that into consideration, the prices were reduced in 1942, and in 1943 the Government had information to require the lower prices under the pricing agreement.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Georgia.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment.

Mr. GEORGE. Mr. President, the able senior Senator from Florida is in the Chamber. The next amendment is on page 182, begins in line 6, and goes through line 10.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 182, after line 5, it is proposed to insert a new paragraph, as follows:

(H) any contract or subcontract for an article made or furnished in obedience to a directive of the War Production Board, and at or below a maximum price established and in effect under the Emergency Price Control Act of 1942, as amended; or.

Mr. GEORGE. Mr. President, the committee desires that this amendment be disagreed to. That is the result of the action of the committee yesterday. The committee wishes to say, however, that this provision is difficult of interpretation, and it may extend the scope of the exemption from renegotiation to profits which should not be exempt. We have had a great deal of difficulty ascertaining precisely how the amendment would apply. The committee is of opinion that it should not be included in the bill, that it would be a mistake to include it.

I understand the senior Senator from Florida desires to offer a substitute for the amendment, and I should be very glad to have him do so at this time.

Mr. ANDREWS. Mr. President, I ask that my amendment be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. In lieu of the committee amendment, on page 182, beginning with line 6, it is proposed to insert the following:

(H) any contract or subcontract for an article made or furnished in obedience to an allocation order of the War Production Board specifically addressed to the maker or furnisher and directing him to supply such article to a specifically named purchaser, and at or below a maximum price established and in effect under the Emergency Price Control Act of 1942, as amended: *Provided*, That the provisions of this paragraph shall not apply to products of facilities financed by, leased from, or managed by or for the United States; or.

Mr. ANDREWS. Mr. President, I should like to state the purpose of the amendment. It seems to confuse some of the members of the committee.

The essential principle which paragraph (H) is intended to make effective is that a maker or furnisher is not responsible for a contractual relation between himself and government which is created by an act of government over which he has no control and against which he has no recourse. He should not be placed in a status where he is classifiable as a contractor or subcontractor merely by fiat.

For these reasons, and since the provisions of the bill would otherwise operate to cause certain directives of the War Production Board to arbitrarily place the recipient in the status of a contractor, paragraph (H) exempts from the renegotiation provisions of the bill any contract or subcontract created by such a directive.

The paragraph is not intended to exempt contracts or subcontracts arising out of the ordinary priority or controlled-material orders as such but only those contracts or subcontracts arbitrarily created by allocation orders which are specifically addressed to a maker or furnisher to supply a specifically named purchaser, nor is it intended to apply to

the products of facilities owned or controlled by government.

The essential provision would be retained, and the paragraph further clarified if the following revised wording were substituted:

(H) any contract or subcontract for an article made or furnished in obedience to an allocation order of the War Production Board specifically addressed to the maker or furnisher and directing him to supply such article to a specifically named purchaser, and at or below a maximum price established and in effect under the Emergency Price Control Act of 1942, as amended: *Provided*, That the provisions of this paragraph shall not apply to products of facilities financed by, leased from, or managed by or for the United States; or.

I had hoped that the Senate would approve the amendment as presented by the Committee on Finance, but since I offered it the committee has decided not to approve paragraph (H). Therefore I have offered a substitute, in order to clarify the paragraph, which seems to have been confusing.

I should be very happy to see the substitute amendment agreed to as paragraph (H) of the revenue bill. I certainly do not wish to be arbitrary about it, and I do not think I have been. I believe the amendment has great merit, and I fear we will regret it if we do not adopt it.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Florida [Mr. ANDREWS] in the nature of a substitute for the amendment of the committee.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the committee.

The amendment was rejected.

The PRESIDING OFFICER. The clerk will state the next amendment of the committee.

The next amendment was, on page 182, line 12, after the word "subcontract", to strike out "exempted from the provisions of this section, or", and in line 14, before the word "by", to strike out "apply," and insert "apply".

The amendment was agreed to.

The next amendment was, on page 182, line 17, after "(C)", to strike out "and (E)" and insert "(E), (G), (H), and (I)."

The amendment was agreed to.

The next amendment was, on page 182, line 23, after the word "to", to strike out "or" and insert "and", and on page 183, line 1, after the word "to", to strike out "or" where it occurs the first time and insert "and."

The amendment was agreed to.

The next amendment was, on page 184, after line 2, to strike out:

(D) any contract or subcontract for the making or furnishing of a standard commercial article, if, in the opinion of the Board, normal competitive conditions affecting the sale of such article exist.

The amendment was agreed to.

The next amendment was, on page 184, after line 21, to strike out:

(J) Nothing in sections 109 and 113 of the Criminal Code (U. S. C., title 18, secs. 198 and 203) or in section 190 of the Revised Statutes (U. S. C., title 5, sec. 99) shall be deemed to prevent any person by reason of service in a Department or the Board during the period (or a part thereof) beginning May 27, 1940, and ending 6 months after the termination of hostilities in the present war, as proclaimed by the President, from acting as counsel, agent, or attorney for prosecuting any claim against the United States: *Provided*, That such person shall not prosecute any claim against the United States (1) involving any subject matter directly connected with which such person was so employed, or (2) during the period such person is engaged in employment in a Department.

The amendment was agreed to.

The next amendment was, on page 186, line 5, after the words "Effective date," to strike out:

The amendments made by subsection (b) shall be effective only with respect to the fiscal years ending after June 30, 1943, except that (1) the amendment inserting subsection (b) in section 403 of the Sixth Supplemental National Defense Appropriation Act of 1942, shall be effective 30 days after the date of the enactment of this act, and (2) the amendments adding subsections (e) (2) and (f) to said section 403 shall be effective from the date of the enactment of this act, and (3) the amendments inserting subsections (i) (1) (C) and (l) shall be effective as if such subsections had been a part of section 403 on the date of its enactment.

And insert:

The amendments made by subsection (b) shall be effective only with respect to the fiscal years ending after June 30, 1943, except that (1) the amendments to subsection (a) (5) (A) of section 403 of the Sixth Supplemental National Defense Appropriation Act, 1942, and the amendments inserting subsections (i) (1) (C), (i) (1) (D), (i) (1) (H), (i) (1) (I), (i) (3), and (k) in section 403 of such act shall be effective as if such amendments and subsections had been a part of section 403 of such act on the date of its enactment, and (2) the amendments adding subsection (d) to section 403 of such act shall be effective from the date of the enactment of this act.

Mr. GEORGE. Mr. President, I have an amendment to the committee amendment on page 186, which I ask to have stated.

The PRESIDING OFFICER. The clerk will state the amendment to the amendment.

The LEGISLATIVE CLERK. In the committee amendment on page 186, beginning with the word "the" at the end of line 18, it is proposed to strike out down to and including the word "and" on line 21, and, in line 23, to strike out "such act" and insert "the Sixth Supplemental National Defense Appropriation Act, 1942."

The PRESIDING OFFICER. Without objection, the amendment to the amendment is agreed to.

Mr. LA FOLLETTE. Mr. President, is that the amendment striking out the language from the end of line 18 down to and including the word "and" in line 21?

Mr. GEORGE. That is correct.

The PRESIDING OFFICER. That is the amendment just agreed to.

The question is on agreeing to the amendment of the committee as amended.

The amendment as amended was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment of the committee.

The LEGISLATIVE CLERK. On page 187, after line 2, it is proposed to insert a new title, as follows:

TITLE VIII—REPRICING OF WAR CONTRACTS

SEC. 801. Repricing of war contracts.

(a) As used in this section the terms "Department," "Secretary," and "article" shall have the same meanings as in subsection (a) of the Renegotiation Act.

(b) When the Secretary of a Department deems that the price of any article or service of any kind, which is required by his Department or directly or indirectly for the performance of any contract with his Department, is unreasonable or unfair, the Secretary may require the person furnishing or offering to furnish such article or service to negotiate to fix a fair and reasonable price therefor. If such person refuses to agree to a price for such article or service which the Secretary considers fair and reasonable, the Secretary by order may fix the price payable to such person for furnishing such article or service after the effective date of the order, whether under existing agreements or otherwise. The order may prescribe the period during which the price so fixed shall be effective and such other terms and conditions as the Secretary deems appropriate.

(c) Any person aggrieved by an order fixing a price under this section may sue the United States in any appropriate court. In such suit, such person shall be entitled to recover from the United States the amount of any difference between (1) fair and just compensation for the articles and services furnished under the terms of the order and (2) the price fixed for such articles and services by the order; but if the prices so fixed by the order are found to exceed fair and just compensation for such articles and services, such person shall be liable to the United States in such suit for the amount of this excess. Any such suit shall be brought within 6 months after the order by the Secretary on which it is based, or after the expiration of the period or periods specified in such order, whichever last occurs. Such a suit shall not stay the order involved.

(d) Any person who willfully refuses or fails to furnish any such articles or services at the price fixed by an order of the Secretary in accordance with this section shall be guilty of a violation of section 9 of the Selective Training and Service Act of 1940 and shall be subject to all of the penalties therein described, and the President shall have power to take immediate possession of the plant or plants of such person and to operate them in accordance with said section 9.

(e) The authority and discretion herein conferred upon the Secretary of each department may be delegated in whole or in part by him to such individuals or agencies as he may designate in his department, or in any other department with the consent of the Secretary of that department, and he may authorize such individuals or agencies to make further delegations of such authority and discretion.

SEC. 802. Effective date.

(a) Section 801 shall be effective from the date of the enactment of this act.

(b) Section 801 shall not apply to any contract with a department or any subcontract made after the date proclaimed by the President as the date of the termination of hostilities in the present war or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier.

Mr. McKELLAR. Will not the Senator from Georgia explain that? I did not know about it.

Mr. GEORGE. The repricing title?

Mr. McKELLAR. Yes.

Mr. GEORGE. Mr. President, I believe this to be a most important provision in the bill. Under the Renegotiation Contracts Act and under directives issued to them, the services may have the power to reprice any article that is purchased by them. Probably that power derives more directly and concisely from the Second War Powers Act. But there was a confusion existing in the House bill because both the recapture of excessive profits and the repricing provisions were included under the same section, and there was an effort to apply the same limitations and restrictions and standards and factors to repricing that were applicable in the case of recapture of excessive profits. Many of these factors were not applicable to repricing.

During the consideration of the bill, I think at my suggestion, probably one of the very few amendments that I offered, I asked that the repricing provisions in the recovery section of excessive profits be taken out, and that this new title be inserted in the bill.

Mr. President, it simply authorizes the Secretary of any of the departments to price an article for which a contract has been made if he finds that the price paid is in excess of a fair and reasonable price, and that becomes binding on the contractor. But the contractor has the right in any competent court to sue for what he himself alleges and is able to show is a fair and reasonable price for his article. If he declines to proceed, then under this provision, in conformity with the general powers given in the Second War Powers Act, and other legislation, the department could take over the plant and operate it anyway.

I think the Senator will find that the services believe that this is going to be most helpful, and that it will enable them, through procurement and through the exercise of the power given under this new title, to expedite the effort to ascertain that a fair price is paid for the article.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. CAPPER. Mr. President, I am aware of some of the difficulties of writing and operating any law designed to allow fair profits to firms holding Government war contracts, and at the same time to prevent "blood profiteering" by other contractors more interested in profits than in the welfare of their country.

I am aware that some few concerns may be able, with the assistance of able lawyers and skillful accountants, to show that the present Renegotiations Act may have worked an injustice in their particular cases. But at the same time, I think we have been justified in insisting that no amendments to the Renegotiations Act which will take away from the Government the power to protect the taxpayer and the soldier against exorbitant wartime profits from war contracts should be adopted. All of us can remember the righteous indignation we felt, and the country felt, over the 23,000 millionaires created by the First World War. That must not happen again. I do not believe it will happen again if the bill now before us for a vote becomes a law. If it does, God help the men in Government who permit it—and God help American business, also, when the people in their wrath try to correct such a condition. Angry people are not too careful whom they hit, when once they are aroused to action.

Wartime profits of 25 percent, 50 percent, 100 percent, even as high as 300 to 400 percent, after Federal taxes, certainly cannot be justified. Such profits—and they are known to have been made in the past—are outrageous. Certainly the Government must have necessary power to renegotiate such contracts and bring them down to some reasonable and fair basis.

When one considers also that in many instances these huge profits have been made on Government money, not on the contractors' own investment, it is plain that severe and fair action should be taken to correct this situation. I believe the amendments offered by the committee are most helpful in that direction.

At the same time, of course, Congress must protect all individuals and corporations against arbitrary and capricious decisions by Government agencies. But it is my opinion that in the main the amendments agreed to by the committee afford this reasonable protection, considering that this is wartime. Of course, I never would grant such broad powers, admittedly subject to grave abuse, to any Government agency in peacetimes. But neither would such "sight unseen" contracts ever be written by a Government agency in peacetimes.

I find myself in general agreement with the findings of the members of the committee signing the report, and shall support their recommendations accordingly.

Mr. President, I agree with the committee that this legislation should protect against the mistakes of World War No. 1. I agree that the coverage of renegotiation powers should be as broad as possible. It is just as bad to profiteer in the manufacture of articles produced both in war and peace times as it is to profiteer in articles made only for war purposes. We must even risk occasional injustices through giving the renegotiation authority power to cut through red tape and arrive at conclusions fair to both the Government and the contracting agency. The power to reprice as well as to renegotiate on the basis of past performance must be included. I believe there is general agreement on this point. Frankly, I am convinced that the majority redefinition of subcontracts to these subcontractors, as had been proposed, would lead to excessive refunds running into the hundreds of millions of dollars, through the retroactive provisions of the section as originally presented to the Senate.

I shall support the bill, believing that the recommendations presented in the committee report, if enacted into the law, will afford the maximum protection to soldiers and taxpayers, and the minimum opportunity for arbitrary action by Government agencies conducting renegotiations.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The CHIEF CLERK. On page 189, after line 2, it is proposed to insert:

SEC. 802. Effective date.

Mr. DANAHER. Mr. President, before the amendment is stated, let me ask the Senator from Georgia if he will entertain at this time a proposed amendment on page 187, after line 2, before we leave this particular portion of the bill?

Mr. GEORGE. On page 187?

Mr. DANAHER. Yes; after line 2. What I have to offer deals entirely with this particular section relating to renegotiation.

Mr. GEORGE. Yes; I would be glad to do so.

Mr. DANAHER. Mr. President, I send forward an amendment and ask that it be stated.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The CHIEF CLERK. On page 187, after line 2, it is proposed to insert:

(e) State taxes: In determining excessive profits under the Renegotiation Act, for fiscal years ending prior to July 1, 1943, amounts paid prior to such determination with respect to taxes imposed by any State, Territory, or political subdivision thereof, which are measured by income shall to the extent so paid be allowed as items of cost.

Mr. DANAHER. Mr. President, briefly, by way of explanation, I should say that the matter has been considered in committee, and yet we did not take formal action on it. The logic of those who would oppose this amendment is unanswerable. But as a practical matter, a very different situation is presented. The effective date under the committee amendment with reference to all of subsection (b) with respect to renegotiation is July 1, 1943, with certain exceptions which are carefully noted.

Mr. President, men did business in 1942 and 1943 having no idea of the effect of renegotiation on that business. States collected income from the contractors, and in many cases apportioned that income under their own laws to State instrumentalities which by law were entitled to receive the income from those States. As a practical administrative matter, for us not to permit States to treat as paid and for the renegotiators not to grant as an item of cost, the State taxes which in fact the contractors have paid, will throw a very great many States into a degree of confusion which really is indescribable.

The proposal does not bear markedly in my State. Legislation to meet the needs of the situation was there adopted. On the other hand there are so many States which are adversely affected that unless we take some remedial step of this character I fear injustice will result.

The National Association of Tax Administrators consists of the tax commissioners of the 48 States. As its chairman at the present time Connecticut's very able tax commissioner, Walter W. Walsh, prepared a memorandum, a copy of

which I have in my hand. Appearing in behalf of the State tax administrators he points out in this memorandum a few salient facts which it seems to me, for the record, should be called to the attention of the Senate.

Unless we shall adopt the amendment now proposed—

The budgetary and fiscal policies of the various States will have been unwarrantably interfered with in that although future treatment of tax refunds is defined with certainty under the House bill, nothing has been done to relieve the States of administrative and fiscal burdens with respect to the handling of renegotiated contracts prior to the effective date of the new law.

Again, Mr. President—

The methods by which renegotiated contracts have been handled, particularly with regard to the utter lack of uniformity of treatment in requiring tax refunds to be made by the States, has left them in a position where they are unable to ascertain how much of their revenue received from corporate taxes is available for their needs, or how much of the amount so received will be subject to refund.

Most of the 32 States having income or franchise taxes already have provisions for refunds required by adjustments resulting from field examinations but practically none of the States have provided for a sufficient reserve to take care of the refunds which will be occasioned through the process of renegotiation.

Among the States, Mr. President, which have already, pursuant to long-standing statutes, allocated the distribution of corporate taxes, are Colorado, Iowa, Massachusetts, New York, Oregon, Wisconsin, Minnesota, South Carolina, and Utah. In those States corporate taxes are allocable not only to certain local towns and counties, but for school and old-age assistance purposes. Consequently, Mr. President, where the tax in fact has been paid and the State has received it, and thereafter allocated it as its statute required, a veritable local tax shambles might be created unless we take some practical measures to relieve them against such possibility.

Inequalities have existed and will continue to exist between the States which are affected by renegotiation. Some States, seven or eight in number, have refused to recognize renegotiation and, therefore, do not refund to the contractor any taxes which have been paid on earnings, later determined by renegotiation to represent excessive profits.

Thus, the State which permits a refund to protect its contractors is penalized by so doing, whereas other States which have refused to recognize renegotiation are greatly benefited through their increased tax receipts. It can readily be seen, therefore, that new legislation will have to be adopted by these States which have failed to recognize renegotiation under the terms of the House bill, or chaos will most surely follow.

By this amendment we are providing for definitive action and are making it possible to achieve some repose, and properly so, in the light of the language which appears on page 186, with respect to the effective date. The pending amendment would in effect simply treat as closed those tax transactions which in fact were closed, and as to which payment had been made, prior to June 30, 1943. I need not go further into the matter, I feel. I have said enough to indicate the nature, the extent, and the scope of the problem. I hope, Mr. President, that the amendment will be agreed to.

Let me say simply in conclusion that the States which will be adversely affected unless we agree to the amendment are Kentucky, Wisconsin, Colorado, Montana, Alabama, North Carolina, Maryland, Vermont, Kansas, Mississippi, South Carolina, New York, and, I think, Georgia.

Mr. LA FOLLETTE. Mr. President, before the amendment is voted on, I should like to have the Senate fully understand the implications of its adoption. The amendment would require the reopening of all the agreements which already have been arrived at by the agencies renegotiating contracts—and such agreements are numbered literally by the thousands—because it has been the universal policy of the renegotiating agencies to deny the allowance of this item.

The Senator from Connecticut has said a shambles might be created insofar as the States are concerned. Mr. President, the amendment, if agreed to, might makes a shambles of all the work which has been done in thousands of cases by the renegotiating agencies, and in the long run it would be at the expense of the Federal Government.

I say there is not a State in the Union which has not had its revenues coming from tax structures existing at the time tremendously increased because of the enormous magnitude of the war spending program. In some States, contracts have been piled on contracts, until their entire economy has become involved in war business. That has increased the revenue of every one of the States.

After renegotiation and after the contractor has acknowledged in an agreement with the Government that his profits were excessive, and has agreed to refund them, or has refunded them, to the Federal Government, to say, as the amendment proposes, that, despite the fact that the profits were excessive, the States are entitled to take their cut before the Federal Government receives the full benefit of the renegotiation, is, it seems to me, a very strange proposal.

As a matter of fact, Mr. President, these profits were never properly arrived at. They are the result of the haste in the procurement procedure, in the fixing of prices for articles or other commodities which have proved, after experience, to be excessive and to produce exorbitant profits.

It is well known that many of the States of the Union never before have had in their treasuries such great surpluses as they have today. Senators are familiar with the fact that the State of New York has just had, or is in process of having, a special session of its legislature, and that its legislature recently enacted a law freezing in the Treasury of the State of New York $140,000,000 of surplus, to be held there for purposes of the post-war period.

The Senator has mentioned my own State. I say, Mr. President, that in Wisconsin the yield from the income taxes and from other corporate taxes has exceeded the wildest dreams the estimators had at the time when they made their estimates predicated upon peacetime yields. The Federal Government, as everyone knows, is in great difficulty insofar as its receipts and expenditures are concerned. I mean that huge deficits are piling up day after day. Yet it is proposed here, in behalf of the States which have benefited revenue-wise, from the Government's expenditures for war, that when a contractor had acknowledged in an agreement with the Government that he had made excessive profits, and was ready to refund them, the State would say, "Oh, no; wait a minute. Before the Federal Government has the full refund, we want our cut out of it."

Mr. President, I cannot believe that the Senate or the Congress, charged with the responsibility of doing all in its power to protect the Federal fiscal situation in this grave emergency, will yield to any such importunities and to any such proposition as is involved in the amendment.

Therefore, Mr. President, I hope the amendment will be rejected. With all due respect to my esteemed friend the Senator from Connecticut [Mr. DANAHER], I say that I regret that I cannot agree with him about the amendment, even though my own State is involved. But I do not think the proposition can stand analysis. The only argument which could be made for it is that, as a practical proposition, it is desired to relieve the States of some difficulty. But what would we do to the renegotiation agencies of the Government if we forced them to reopen all the closed agreements, and to readjust those agreements, in order that the States might have their "cut" of profits which were never rightfully earned?

Mr. DANAHER. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. ELLENDER in the chair). Does the Senator from Wisconsin yield to the Senator from Connecticut?

Mr. LA FOLLETTE. I yield.

Mr. DANAHER. I am certain the Senator is acting under a misapprehension in thinking that the closed agreements would be reopened. They would not be. We had that matter before the committee, and we had the assistance of Mr. Stam's analysis in that respect. I am certain the Senator will recall his advices that the closed agreements would not be opened.

Mr. LA FOLLETTE. Mr. President, the Senator's amendment is prospective insofar as it concerns the denial to the States of any right to the excessive or exorbitant profits, but the amendment would be retroactive insofar as concerns the closed agreements. One of the things the committee did was to refuse to reopen the closed agreements, even to give the contractors or subcontractors the right to go into court and obtain a review of the determination. I am certain I am correct about that. I have just conferred with representatives of the renegotiating agencies, and have been informed that under the very language which is proposed in the amendment they would be forced to open up thousands of agreements, because it has been the universal

policy of all the renegotiating agencies to deny this appeal on the part of the States.

Therefore, the agreements having been closed on that ground, obviously they would have to be reopened, if the Senator's amendment were to prevail.

Mr. TAFT. Mr. President, I do not agree at all with the Senator from Wisconsin. The actual condition is that in 1942 a great many companies operated perfectly properly. Their profits were not necessarily excessive under any standard anybody had established. They made their returns. They figured out what their net income was. They then paid their taxes in 1942 to the various States, based on their net incomes.

Afterward as it developed the Federal Government came along and said, "Here, ycu have to pay back to us a lot of money." To do so would reduce the companies' net incomes, on the basis of which they had already made tax payments to the States. The Federal Government said, "You must get that back from the States. That is none of our concern. We will not allow you credit for the sums you paid to the States under a misapprehension. We will only allow you a proportion of it, a reduced amount of the net income which we think you will have after we take the money away from you by means of renegotiation. You must get the rest of it from the States."

As a matter of fact, many States do not provide for refunds under such conditions. They cannot be obtained unless the States enact special laws allowing special claims. I think the States should do so if we do not do anything about it. After all, renegotiation has taken away from these companies large amounts. It seems to me to be impractical, and an unreasonable requirement to say to the companies, "You must reopen your relations with the States and get the money back in that way." For the year 1942, I cannot see why it is not a very much simpler matter to permit the States to keep those taxes and reduce the amount of the renegotiation payments by such amounts.

With respect to the retroactive provision, I am not quite certain what that provides, but on principle, and as a practical matter, it seems to me that that is the best way to treat it. After all, we are getting money that was brought in only by the renegotiation statute, under an extraordinary procedure. Most of the companies did not realize that it was as extensive as it proved to be when they completed the year 1942. It seems to me to be perfectly reasonable to leave this as it stands, and not require the companies to get the money back from the States, under machinery which is often defective, and which is certainly very complicated in a large number of States.

Mr. BARKLEY. Mr. President, my State, through an organization of State revenue departments, has brought this matter to my attention. I had a conference yesterday with a gentleman from Connecticut, I believe, who is here representing the various State revenue departments. I was not convinced by his statement. He made a perfectly clear statement, but it did not convince me, and I am not yet convinced—although my mind is open on the subject—that we ought to take money out of the Treasury of the United States and make refunds to corporations or individuals for taxes paid into the State treasuries, which would probably not have been paid if the renegotiation had taken place prior to the time the tax had to be paid to the State. That is what this amounts to, if I correctly understand it. Is that the correct interpretation?

Mr. DANAHER. Mr. President, let me say to the Senator that it is the intention of the draftsmen of this amendment that in cases in which renegotiation has not been concluded, and in which in fact hitherto, and prior to renegotiation, the contractor had paid his State taxes, the moneys so paid to the States shall be treated as an item of cost, whether the cases arise in Kentucky, Pennsylvania, or any other State.

Mr. BARKLEY. What it amounts to is that out of the Treasury of the United States a corporation will be reimbursed for what it has paid into the State treasury.

Mr. DANAHER. No.

Mr. BARKLEY. Why not, if it is reopened, so that it is treated as an item of cost in 1942, or at any time prior to July 1, 1943? If it is to be treated as an item of cost in any settlements which have been made up to that time, so that the amount that would have been deducted is different, I do not see how it results in anything else except the Federal Government reimbursing the corporation after the renegotiation has been terminated, with the amount which the State received, and which it would not have received if a smaller amount had been the basis of the State income tax.

Mr. DANAHER. I think we can state it in another way. In 1942 the A corporation was a contractor with the Government. It performed its contract, and when it came to the Renegotiation Board, the Renegotiation Board said:

> The amount which you have paid to the State of Kentucky—or the State of Connecticut—as a tax on your earnings, to the amount which we now say were "excessive profits" will not be allowed to you as an item of cost. We, the renegotiators for the Government, will not allow as an item of cost the amount of a tax which the State has already collected on that part of your income or earnings which we say constituted "excessive profits."

The State already has the money. It is not a question of refunding anything to the State in that respect.

Mr. BARKLEY. I probably misstated what I had in mind. It is a refund to the corporation, and not to the State, the State already having received the money.

Mr. DANAHER. Yes.

Mr. BARKLEY. Assuming that the same corporations will continue to do business in the States, what is to prevent the States from making a sort of nunc pro tunc allowance in the future calculations of State taxes based upon the fact that it received more money than the actual net income for a previous year justified?

Mr. DANAHER. On all business from July 1, 1943 forward, the State can do so. For example, on income-tax returns to be filed in 1944, on 1943 business, it can do so, because the tax has not yet been paid. But on all the taxes which were paid to the States prior to the close of the fiscal year ending June 30, 1943, the States cannot adjust the payment. In fact, in many instances the money has been expended by the States.

Mr. BARKLEY. That may be true; but suppose that in some States, in calculating the amount of tax for 1943, the State should agree that in 1942 the taxpayer paid a tax on more income than he actually had, as developed by renegotiation. Why should not the State make an offset in 1943 taxes in order to adjust an overpayment in 1942?

Mr. DANAHER. That is a perfectly fair question. I assume that in my State and in a good many other States the State authorities have done and will do that very thing. But there are yet other States which have not done it and cannot do it with respect to the closed years.

Let me say further to the Senator that some of these renegotiation agencies have hitherto—at least during 1942 and part of 1943—actually allowed as a cost those taxes which were paid to the States. It is only within the past few months that there has been anything like a uniform policy with reference to this whole business, and consequently, once uniformity of treatment was established, everyone knew where he was and was able to adjust himself. I am talking about those cases which were in fact closed and in which payments were in fact made before June 30, 1943.

Mr. BARKLEY. In other words, it seems to me that the retroactive feature of this amendment—and the Senator will correct me if I am mistaken—would operate in this way: The cases which have been closed, and in which too much was paid to the State, would be reopened, and the taxpayers would be allowed credit for the overpayment to the State, which means that the money must be paid out of the Federal Treasury. That is correct, is it not?

Mr. DANAHER. I do not understand that there would be any payment out of the Federal Treasury, but rather that the Price Adjustment Board, in the renegotiation——

Mr. BARKLEY. If the corporation were still doing business and had a contract which had to be renegotiated, it might be taken into consideration in the renegotiation. But if the corporation involved is already through with the Federal Government, if its contract has terminated and it has no current business, if the case is reopened to make this allowance, it must be paid out of the Treasury, as I see it.

Mr. DANAHER. This is the way the thing shapes up in my mind: As I have already frankly and candidly stated, I can understand how it is possible to make plenty of arguments against the amendment. I said that before the Senator entered the Chamber. However, I am trying to deal with a practical situation.

Mr. BARKLEY. I am not making arguments against it. I am trying to find out the facts.

Mr. DANAHER. My good friend from Wisconsin [Mr. LA FOLLETTE] made an excellent argument against it. I saw that

he had half risen to his feet to resume, so I headed him off.

Mr. LA FOLLETTE. The Senator's efforts will be unavailing. [Laughter.]

Mr. DANAHER. Mr. President, I think we ought to take this matter to conference. I think that between now and conference time we shall have an opportunity to look into the question of exactly how many contracts, if any, would be reopened, or how many refunds would be made from the Treasury. I do not believe there would be any. I have not had the benefit of consultation with the officers of the Price Adjustment Board, as the Senator from Wisconsin says he has had—and, of course, I believe him—but I have consulted with Mr. Sham, chief of our joint staff, and with the legislative draftsman, both of whom assure me that there need not be the reopening which the Senator from Wisconsin fears.

Mr. LA FOLLETTE. I do not know who gave the Senator that assurance.

Mr. GEORGE. Mr. President, I should like to clarify one point. This amendment does not open up any case that has actually been settled. It could have no application except to the pending cases for years prior to July 1, 1943, which would mean the fiscal year 1942. We never open up an agreement or anything of that kind unless there is an express provision in the statute to do so. The amendment could only have application to those unsettled cases where actual payments have been made to the State. It would not have any effect on the fairness or unfairness of the proposal as between taxpayers. I think it is clear that the amendment itself would not open up any closed agreements, or any agreements.

Mr. DANAHER. I thank the Senator from Georgia, and I yield the floor.

Mr. LA FOLLETTE. Mr. President, the amendment reads:

> In determining excessive profits under the Renegotiation Act, for fiscal years ending prior to July 1, 1943, amounts paid prior to such determination with respect to taxes imposed by any State, Territory, or political subdivision thereof, which are measured by income, shall to the extent so paid be allowed as items of cost.

I dislike to disagree with the distinguished chairman of the Finance Committee.

Mr. GEORGE. No; Mr. President, I should like to be understood about the matter. The amendment contains the words "in determining excessive profits." If the profits have been determined and settled it would be necessary to go far beyond the provisions of the amendment to open up any agreement of that kind. The amendment is not a committee amendment, as the Senator knows.

Mr. LA FOLLETTE. Mr. President, perhaps the Senator is correct, but I think the language is subject to other interpretation. I also wish to point out that the argument made here is that it will be some trouble for the States to take care of the corporate taxpayers who have paid income taxes upon profits which they subsequently admitted were excessive, and were willing to refund to the Government. I ask: In this hour of our trial, at a time when the Congress has labored for months and brought forth a mouse so far as revenue requirements of the Government are concerned, and at a time when the States have benefited tremendously from enormous expenditures by the Federal Government for war purposes, who is in a better position to enact special legislation? This is special legislation. It is designed to take care of the State's problem for the State. Mr. President, when a State such as New York has $140,000,000 surplus which has been frozen for the duration of the war, and when the treasuries of States such as mine and other States are bulging with revenues because of war expenditures to an extent never known before in their history, upon whom should we place the burden of passing legislation to take care of the situation?

I also point out that in the end the money will come out of the Treasury of the United States in the sense that the Treasury will not receive dollars which the corporation has agreed represent excessive profits because the States have clamped down upon them before the Federal Government gets the money.

Mr. President, in the light of all the circumstances and facts I think this is really an outrageous proposal. It seems to me that when we look at the total picture involved in the amendment, we must realize that this is an unreasonable request on the part of the States which today are in better financial condition than they have ever been in all their history, and when the Federal Government is in the dire position of having to impose through this bill taxes which under no other circumstances would any Senator rise on the floor to justify. When we impose a retail-sales tax of 20 or 25 percent on any article we are imposing an indefensible rate of taxation. We do it because we are pressed for revenues. Now States which are rolling in wealth and surpluses due to war expenditures are asking the Federal Government to take care of a problem which they should take care of themselves, at a time when they are financially in a very much better position to take care of it than is the Federal Government which is running up a deficit of billions of dollars every year.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield.

Mr. BARKLEY. If this amendment is to be adopted I think it ought to be changed at least to the extent of clarifying its intention so far as past closed renegotiated cases are concerned. In order that I may contribute a little to that clarification I move that in the first line of the amendment the word "determining" be stricken out and in its place there be inserted the words "future determination of", so that it will read:

> (e) State taxes: In future determination of excessive profits under the Renegotiation Act, for fiscal years—

And so forth. That would eliminate the possibility of going back to these cases which have already been closed, either by agreement or order, and reopening them on the question of State taxes, so that it might be interpreted to mean that the corporation or individual should be reimbursed for the payment of State taxes out of the Treasury when the contract had already been negotiated and closed.

We have amended this measure so as not to reopen any of those cases and I do not wish to see them reopened so far as payment of State taxes is concerned. The Senator from Connecticut has said it is not his intention to do that. In order that his intention may be integrated with the amendment, I offer the amendment to amend in the way which I have stated. I am not committing myself one way or the other if the change should be agreed to.

Mr. GEORGE. Mr. President, I think it would be better to say "pending and unclosed negotiations for this past year," instead of "future determination."

Mr. BARKLEY. Well, it is future determination of the excess profits. The determinations are to be made in the future. That, of course, would apply to pending cases.

Mr. GEORGE. If the amendment is agreed to it can go to conference.

Mr. BARKLEY. Yes.

Mr. GEORGE. I have this trouble in mind concerning the amendment, and I do not know whether I have made myself plain about it or not. As between the taxpayer who does not receive the benefit that this amendment would give him, and the taxpayer who has not yet concluded the negotiation, an inequality would be created. Maybe every case should stand on its own bottom, but it would result in some inequality of treatment between taxpayers beyond any doubt. If the amendment is agreed to of course it ought to be very thoroughly examined in conference although I think perhaps the language suggested by the Senator would be sufficient on that point.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Kentucky [Mr. BARKLEY] to the amendment of the Senator from Connecticut [Mr. DANAHER].

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Connecticut, as amended.

Mr. BARKLEY. Mr. President, am I correct in my understanding that the Senator from Connecticut said that the words "or accrued" in the third line have already been eliminated?

Mr. DANAHER. I so stated, so that I would not run into the argument made by the Senator from Wisconsin, but I ran into it anyway.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Connecticut, as amended. [Putting the question.]

Mr. DANAHER. I ask for a division.

Mr. LA FOLLETTE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is the demand for the yeas and nays seconded?

The yeas and nays were not ordered.

Mr. BARKLEY. I think there ought to be a quorum call first.

Mr. LA FOLLETTE I suggest the absence of a quorum.

Mr. DANAHER. Mr. President, will the Senator withhold the suggestion of the absence of a quorum?

Mr. LA FOLLETTE. For what purpose?

Mr. DANAHER. To the end that we may have a test on a division.

Mr. LA FOLLETTE. No, I want Senators to go on record. I want to find out whether we are going to protect the Treasury of the United States at this time, or whether we are going to enact a piece of legislation to benefit the State treasuries which are bursting with surpluses.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Gillette	O'Daniel
Andrews	Green	O'Mahoney
Austin	Guffey	Overton
Bailey	Hatch	Radcliffe
Bankhead	Hawkes	Reed
Barkley	Hayden	Revercomb
Bilbo	Hill	Reynolds
Bone	Holman	Russell
Brooks	Johnson, Colo.	Shipstead
Buck	Kilgore	Stewart
Burton	La Follette	Taft
Bushfield	Langer	Thomas, Utah
Butler	Lodge	Tobey
Byrd	Lucas	Truman
Capper	McCarran	Tunnell
Caraway	McClellan	Tydings
Chavez	McFarland	Vandenberg
Clark, Mo.	McKellar	Wallgren
Connally	Maloney	Walsh, Mass.
Danaher	Maybank	Walsh, N. J.
Davis	Mead	Wheeler
Eastland	Millikin	Wherry
Ellender	Moore	White
Ferguson	Murdock	Wiley
George	Murray	Willis
Gerry	Nye	

The PRESIDING OFFICER. Seventy-seven Senators having answered to their names, a quorum is present. The question is on the amendment offered by the Senator from Connecticut [Mr. DANAHER], as amended.

Mr. LA FOLLETTE. I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk called the roll.

Mr. DAVIS. I have a general pair with the junior Senator from Kentucky [Mr. CHANDLER]. In his absence, not knowing how he would vote, I withhold my vote. If permitted to vote, I should vote "yea."

Mr. BANKHEAD. I have a general pair with the senior Senator from Oregon [Mr. MCNARY]. Not knowing how he would vote if present, I withhold my vote.

Mr. HILL. I announce that the Senator from Virginia [Mr. GLASS] is absent from the Senate because of illness.

The Senator from Kentucky [Mr. CHANDLER], the Senator from Idaho [Mr. CLARK], the Senator from Texas [Mr. O'DANIEL], the Senator from South Carolina [Mr. SMITH], and the Senator from Indiana [Mr. VAN NUYS] are necessarily absent.

The Senator from Florida [Mr. PEPPER] is detained because of a slight cold.

The Senator from Nevada [Mr. SCRUGHAM] is absent on official business.

The Senator from Texas [Mr. CONNALLY], the Senator from California [Mr. DOWNEY], the Senator from Iowa [Mr. GILLETTE], the Senator from Oklahoma [Mr. THOMAS], and the Senator from New York [Mr. WAGNER] are detained in Government departments on matters pertaining to their respective States.

Mr. THOMAS of Utah. I have a general pair with the Senator from New Hampshire [Mr. BRIDGES]. I transfer that pair to the Senator from New York [Mr. WAGNER]. I am not advised how either Senator would vote if present.

Mr. WHITE. The Senator from Oregon [Mr. MCNARY] and the Senator from Iowa [Mr. WILSON] are absent because of illness.

The Senator from Minnesota [Mr. BALL], the Senator from Maine [Mr. BREWSTER], and the Senator from New Hampshire [Mr. BRIDGES] are necessarily absent.

The Senator from South Dakota [Mr. GURNEY] and the Senator from Wyoming [Mr. ROBERTSON] are unavoidably detained.

The result was announced—yeas 25, nays 48, as follows:

YEAS 25

Bailey	Gerry	Revercomb
Bilbo	Hawkes	Taft
Brooks	Lodge	Thomas, Idaho
Buck	Maloney	Tobey
Burton	Millikin	Walsh, N. J.
Bushfield	Moore	Wherry
Butler	Overton	Willis
Danaher	Radcliffe	
George	Reed	

NAYS 48

Aiken	Hayden	Nye
Andrews	Hill	O'Mahoney
Austin	Holman	Reynolds
Barkley	Johnson, Colo.	Russell
Bone	Kilgore	Shipstead
Byrd	La Follette	Stewart
Capper	Langer	Thomas, Utah
Caraway	Lucas	Truman
Chavez	McCarran	Tunnell
Clark, Mo.	McClellan	Tydings
Eastland	McFarland	Vandenberg
Ellender	McKellar	Wallgren
Ferguson	Maybank	Walsh, Mass.
Green	Mead	Wheeler
Guffey	Murdock	White
Hatch	Murray	Wiley

NOT VOTING 23

Ball	Downey	Robertson
Bankhead	Gillette	Scrugham
Brewster	Glass	Smith
Bridges	Gurney	Thomas, Okla.
Chandler	Johnson, Calif.	Van Nuys
Clark, Idaho	McNary	Wagner
Connally	O'Daniel	Wilson
Davis	Pepper	

So Mr. DANAHER'S amendment, as amended, was rejected.

The PRESIDING OFFICER. The Chair desires to call the attention of the Senator from Georgia to the fact that the amendment in section 802, page 189, has not as yet been acted upon. It has been stated, but not voted upon.

Mr. GEORGE. I should like to have the amendment acted on.

The PRESIDING OFFICER. The question is on agreeing to the amendment on page 189, beginning on line 3.

The amendment was agreed to.

Mr. GEORGE. Now, Mr. President, I send to the desk an amendment and ask that it be stated, and I shall then offer a short explanation.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 167, line 5, after the word "recovered," it is proposed to insert "from amounts previously expended from appropriations from the Treasury."

Mr. GEORGE. Under subsection (c) (1) all moneys recovered by way of repayment or suit shall be covered into the Treasury as miscellaneous receipts. This provision, it is pointed out, should not apply to contracts of the Defense Plant Corporation, Metals Reserve Company, and other corporations which operate on borrowed funds and not on appropriations. Their recoveries should be retained and disposed of in accordance with their corporate procedure.

The amendment is offered for that purpose.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Georgia.

The amendment was agreed to.

Mr. GEORGE. Mr. President, I send forward another amendment which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

Mr. GEORGE. Mr. President, the amendment is somewhat lengthy, and I think it will enable the Senate to understand it better if I make a word of explanation of it in advance. The amendment is suggested by the Treasury. It is an amendment which should be agreed to, and if anything else is needful in connection with the amendment it can be arranged in conference.

Mr. President, this amendment deals with the credit for income taxes paid upon excessive profits subsequently recovered through renegotiation. Under section 3806 as it now stands a contractor who has been "renegotiated" is permitted to reduce the amount of profits he must return to the Government, or the amount which will be withheld from him, by the amount of the income taxes theretofore paid upon such profits. This provides an equitable adjustment and obviates the need for many tax refunds.

However, as a result of the cancelation of 1 year's tax liability by the Current Tax Payment Act, the operation of section 3806 as to the years 1942 and 1943 may not be satisfactory in all cases. In some instances a credit will have been allowed for taxes that have subsequently been canceled and therefore should not have been allowed. In other cases, the credits now provided will not be sufficient to prevent hardship upon contractors. For example, if a contractor's income for 1942 was high and his 1943 income much lower, renegotiation may reduce his 1942 income so that the tax paid for 1942 prior to enactment of the Current Tax Payment Act may exceed the 1943 liability to which it is applied. In such and other similar cases an additional credit should be provided to reduce the repayments of excessive profits by the amount of the overpayment of 1943 income tax.

While administrative disposition might be made of the matter under present law, the proposed amendment will clarify this type of situation, in a manner consistent with present administrative procedures in renegotiation, by providing in effect that the credits allowed under section 3806 are to be increased or decreased wherever necessary to meet the effects of the application of the Current Tax

Payment Act. Accordingly, the provision does no more than to continue the present policy of section 3806 with specific provision for the adjustments required by reason of the cancelation of 1 year's tax liability. It will serve to avoid the possible uncertainties that might arise were the matter left as it now is to administrative solution. The Treasury and the service departments have recommended its adoption.

The amendment is lengthy, but I have tried to explain its purpose as briefly as possible.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. At the proper place in the bill it is proposed to insert the following:

SEC. —. Certain credits of individuals with respect to renegotiation of war contracts or disallowance of reimbursement.

Section 3806 (b) (relating to credit against repayment on account of renegotiation or allowance) is amended by renumbering paragraphs (2) and (3) as paragraphs (3) and (4) respectively and inserting after paragraph (1) the following new paragraph:

"(2) Special Rules as to Individuals for 1942 and 1943.—In the case of an individual subject to the provisions of sections 58, 59, and 60 of chapter I and to the provisions of section 6 of the Current Tax Payment Act of 1943—

"(A) No credit shall be allowed under paragraph (1) of this subsection for any amount by which the tax for the taxable year 1942 under chapter 1 is decreased by the application of paragraph (1) or paragraph (2) of subsection (a). If, contrary to the foregoing provisions of this subparagraph, any part of the amount shown on the return as such tax for the taxable year 1942 or any part of an amount assessed as such tax for such year or as an addition to such tax is credited against excessive profits eliminated for such year or against an amount disallowed for such year, the individual shall pay into the Treasury an amount equal to the amount of such credit, and if such amount is not voluntarily paid, the Commissioner shall, despite the provisions of the Current Tax Payment Act of 1943, collect the same under the usual methods employed to collect the tax imposed by chapter 1. For the purposes of this section the amount required by this subparagraph to be paid into the Treasury shall be considered as an amount of excessive profits eliminated for the taxable year 1942, or an amount disallowed for such year, as the case may be; and, despite the provisions of the Current Tax Payment Act of 1943, the payment of such amount shall not be considered as payment on account of the tax or estimated tax for the taxable year 1943.

"(B) In the case of a renegotiation with respect to the taxable year 1942 which is made after the enactment of the Current Tax Payment Act of 1943 and prior to the date on which the individual files his return for the taxable year 1943 and with respect to which payment or repayment of the excessive profits eliminated or any part thereof is deferred by agreement, if the amount shown as the tax on the return for the taxable year 1943 reflects the application of paragraph (1) of subsection (a) with respect to the taxable year 1942 and is computed in accordance with the provisions of section 6 of the Current Tax Payment Act of 1943, there shall be credited against the excessive profits eliminated for the taxable year 1942 the amount by which the sum of the estimated tax previously paid for the taxable year 1943 and the payments on account of the taxable year 1942 which are treated as payments on account of the estimated tax for the taxable year 1943, exceeds the amount shown as the tax on the return for the taxable year 1943: *Provided*, That the amount allowable as a credit under the foregoing provisions of this subparagraph shall not exceed (i) the amount of credit of overpayment of tax provided for in the agreement deferring payment or repayment of excessive profits eliminated or (ii) the amount of excessive profits eliminated for the taxable year 1942 which, at the time the credit is allowed, have not been paid or repaid to the United States or an agency thereof or applied as an offset against other amounts due the individual. If any credit is allowed under this subparagraph, no other credit or refund under the internal revenue laws shall be made on account of the amount so allowed with respect to the taxable year 1943. Any credit of overpayment of tax allowed pursuant to the agreement deferring payment or repayment of excessive profits eliminated shall be considered as a credit allowed under this subparagraph.

"(C) Except as prevented by the provisions of the foregoing subparagraph (B), there shall be credited against the amount of excessive profits eliminated for the taxable year 1942 the amount by which the tax for the taxable year 1943 as computed under section 6 of the Current Tax Payment Act of 1943 is decreased by reason of the application of paragraph (1) of subsection (a) with respect to the taxable year 1942; and there shall be credited against the amount disallowed for the taxable year 1942 the amount by which the tax for the taxable year 1943 as computed under section 6 of the Current Tax Payment Act of 1943 is decreased by reason of the application of paragraph (2) of subsection (a) with respect to the taxable year 1942.

For the purposes of the foregoing provisions of this paragraph, the terms 'taxable year 1942' and 'taxable year 1943' shall have the meanings assigned to them by section 6 (g) of the Current Tax Payment Act of 1943."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Georgia.

The amendment was agreed to.

Mr. GEORGE. Mr. President, I send forward a number of clerical amendments made necessary by reason of other amendments already agreed to. It will be necessary in connection with them to reconsider the action by which some amendments have been agreed to, in order that they may be amended.

The PRESIDING OFFICER. The amendments will be stated en bloc.

The CHIEF CLERK. On page 168, in line 3, it is proposed to strike out "are" and insert "is";

On page 168, in line 7, it is proposed to strike out "are" and insert "is";

On page 182, in line 3, it is proposed to strike out "(G)" and insert "(F)";

On page 182, in line 11, it is proposed to strike out "(I)" and insert "(G)";

On page 182, in line 17, it is proposed to strike out "(E)", "(G)", "(H)", and "(I)", and insert "(F), and (G)";

On page 184, in line 7, it is proposed to strike out "(D)" and insert "(E)"; and in line 12, to strike out "(E)" and insert "(F)";

On page 186, in line 22, it is proposed to strike out "(i) (1) (H), (i) (1) (I)" and insert "(i) (1) (G)."

On page 187, line 1, after "subsection (d)" it is proposed to insert "and (e) (2)."

The PRESIDING OFFICER. Without objection, the votes by which the amendments proposed to be amended were agreed to will be reconsidered, the amendments proposed will be agreed to, and the amendments, as amended, are agreed to.

Mr. GEORGE. Mr. President, I believe that completes the committee amendments. If any committee amendment has been overlooked, I would appreciate it if Senators would bring it to my attention at this point.

The PRESIDING OFFICER. The bill is still open to amendment.

Mr. McCARRAN. Mr. President, earlier today I called an amendment to the attention of the Senator from Georgia, and notwithstanding the fact that we had passed the place in the bill where it would be applicable, I understood that he would not attempt to foreclose consideration of it. I now ask that the amendment be stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 38, line 4, it is proposed to insert the following:

(y) (2) Deferred maintenance deduction—Carriers: The deduction for deferred maintenance provided in section 128 (B).

On page 67, line 1, it is proposed to insert the following new section:

SEC. —. Chapter 1 is amended by inserting after section 128 the following new section:

"SEC. 128 (B). (a) Deferred maintenance deduction—Carriers: In computing the net income of any carrier subject to the Interstate Commerce Act, there shall be allowed as a deduction, in addition to deductions otherwise provided for in this chapter, the amount which such carrier shall, pursuant to authorization of the Interstate Commerce Commission, accrue in its maintenance reserve account to provide for the cost of maintenance and repairs which it is unable to undertake or complete in any taxable year beginning after December 31, 1942: *Provided*, That United States Treasury securities shall be set aside and held by the taxpayer in a face amount at all times not less than the balance in said maintenance reserve account: *Provided further*, That expenditures subsequently made on account of any maintenance or repairs for which accruals have been made in said reserve account shall be charged against said account and shall not be deductible in the determination of net income, except to the extent provided in subsection (b) hereof.

"(b) The deduction provided in subsection (a) of this section may be taken in any taxable year beginning after December 31, 1942, but may not be taken in any taxable year beginning after December 31 in the year in which the President shall issue his proclamation declaring the war to be at an end. Any amount remaining in the maintenance reserve account on December 31 of the fifth year following the year in which the President shall issue his proclamation as aforesaid shall be included in the gross income of the taxpayer in the fifth year following the issuance of such proclamation and shall be taxed at the rate or rates applicable to the last year or years in which an equivalent amount of deduction was allowed, with interest at the rate or rates borne by the Treasury securities remaining in the taxpayer's treasury. Upon inclusion of such remaining amount in its gross income, any expenditures subsequently made on account of deferred maintenance and repairs shall be deductible under section 23 (a), and the taxpayer shall be relieved of

any further obligation to hold Treasury securities under the provisions of paragraph (a) of this section."

Mr. McCARRAN. Mr. President, with reference to the amendment I have just offered, and which has been read by the clerk, it will not be gainsaid that the common carriers and transportation lines of the country have during the past 2½ years or thereabouts been deprived of the opportunity to obtain parts and repair equipment for their transportation facilities. The bus lines and truck lines of the country have been running on the ragged edge for a year or more. The railroads have been taxed to the limit to find parts or parts of parts or spare parts to keep their equipment in operating condition. That is due to the fact that the War Production Board, in looking to the welfare of the prosecution of the war, has seen fit to limit the use of metal in every respect, so that parts for repair, improvements, and construction have been denied the common-carrier lines.

Mr. CLARK of Missouri. Mr. President, will the Senator yield?

Mr. McCARRAN. I yield.

Mr. CLARK of Missouri. In addition to what the Senator has suggested as to the difficulty of obtaining parts for replacements and maintenance let me say that, if the equipment used on the transportation system had been taken out of operation for the period of time necessary in order to have made the replacements and maintenance repairs which ordinarily would have been made, it would have meant a complete breakdown of the transportation system. So, from every standpoint, it is necessary for the carriers to obtain the parts.

Mr. McCARRAN. What the Senator from Missouri has said is correct. No agency or no group of which I know, save and except the young men and young women of the country, have contributed more to the drive in this war than have the transportation agencies. That being true, we know that their equipment has deteriorated. Is it not right and proper that the carriers be permitted now to lay aside that which the Interstate Commerce Commission would permit them to lay aside, so that when the war is over they may have a fund, audited, controlled, regulated, and prescribed by the Interstate Commerce Commission, which will enable them to repair their equipment and set it to rights again?

Mr. REED. Mr. President, will the Senator yield?

Mr. McCARRAN. I yield.

Mr. REED. I am in entire sympathy with the purpose of the amendment offered by the Senator from Nevada. All of us are familiar with the transportation agencies of the country, and I think we know that the railroads in particular have been unable to obtain either the materials or labor required in order to keep their plants in proper condition. Certainly they should be allowed to take out of their current income an amount sufficient to do this work when the materials and the men are available. That is especially true when all the deductions made and all the money deducted will be under the supervision, scrutiny, and rules of the Interstate Commerce Commission.

I certainly hope the amendment offered by the Senator from Nevada will prevail.

Mr. McCARRAN. Mr. President, in the drafting of the amendment, I have gone a little further by way of providing what I thought was protection, in that I have made provision that the amounts allowed to be deducted, and which would be subject to supervision by the Interstate Commerce Commission, should be invested in United States Government bonds, and held in that form; and that if the repairs and replacements were not carried out in 5 years, then the tax must be paid, and the bonds would become the property of the Government.

I shall not take the time of the Senate to discuss the amendment further. I think it has merit, and I submit it to the Senate with the hope that the Senate will agree to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nevada.

Mr. GEORGE. Mr. President, this matter has had consideration, indeed, very serious consideration, on several occasions at the hands of the Finance Committee. In lieu of having provision made for deferred maintenance, the Finance Committee first gave up its own ideas and favored a provision for inventory reserves or deferred maintenance reserves. We have adopted what has become known to taxpayers generally as the net loss carry-back, or the unused credit carry-back.

We have the situation that if a railroad company runs into the red during the first year after the termination of the present war, it may expend money for deferred maintenance and may go back and apply such loss against its income for the previous 2 years. That arrangement is not altogether satisfactory to the railway companies, although many of them like it. There is, however, one feature of that provision which yet remains to be studied, and which should be studied in connection with a bill to be taken up after this bill is out of the way. I refer to the carry-back of expenses incurred, whether there has been any loss incurred or not. The Treasury representatives spoke of that principle this year, and indicated sympathy with it, but we have not had the opportunity fully to explore it. Therefore, I hope that the pending amendment will not be adopted at this time, not because of any general disagreement with its objective but because a different method of treatment is now in the revenue act. I think it would be improper and harmful to consider a special provision which might be applicable only to railroad corporations and a few others, without saying what similar or comparable treatment should be given in other cases, to which this amendment would not apply.

Mr. McCARRAN. Mr. President, I do not wish to be at all captious in reply to the remarks of the able Senator from Georgia, but promises by the Treasury Department seem to be the last things carried out. The Treasury representatives are usually promising and they are usually studying. That is about all the taxpayer gets out of it. The Treasury Department is again studying and promising.

To my way of looking at it, we have here a very simple way of dealing with a factual condition. The bus lines, the truck lines, the railroads, and other common carriers of this country have undoubtedly, to the knowledge of every Member of the Senate, been deprived of the opportunity to keep their equipment in proper shape because of the stringency of war and because of the regulations imposed upon them by the War Production Board. It seems to me to be a simple matter. I cannot see why it should be complicated at all, or why, under the regulations of the Interstate Commerce Commission, which are now the law, the carriers should not set aside that which will rehabilitate them when the war is over.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nevada [Mr. McCARRAN].

The amendment was rejected.

Mr. TRUMAN. Mr. President, as we went through the bill, when the committee amendment on page 184, lines 3 to 6, was rejected, I asked the Senator from Georgia if I might offer a clarifying amendment, and he asked me to defer offering the amendment.

Mr. GEORGE. Mr. President, I ask unanimous consent that the vote by which the committee amendment on page 184, after line 2, was rejected, be reconsidered so that the amendment of the Senator from Missouri may be offered.

The PRESIDING OFFICER. Without objection, the vote by which the committee amendment on page 184, after line 2, was rejected, is reconsidered.

Mr. TRUMAN. Mr. President, the amendment I am now offering has to do only with lines 3 to 6, inclusive, in the committee amendment on page 184. I ask that it be stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Missouri will be stated.

The CHIEF CLERK. On page 184, line 5, in the committee amendment, after the word "Board" it is proposed to strike out "normal competitive conditions affecting the sale of such article exist" and insert "competitive conditions affecting the sale of such article are such as will reasonably protect the Government against excessive prices."

Mr. TRUMAN. Mr. President, the discretionary exemption provision respecting standard commercial articles has been returned to the bill, just as it came from the House, and I think, in the form in which it is now, it never will be used. I am suggesting that the Government be protected against abnormal prices by adding my amendment, and I hope it will be agreed to.

Mr. GEORGE. Mr. President, as I understand, the Senator is not proposing to change the discretionary power lodged in the Board of Review?

Mr. TRUMAN. Not at all. I am simply making it a little clearer.

Mr. GEORGE. I can see no objection to the amendment. At least I shall be

glad to take it to conference and examine it there.

Mr. TRUMAN. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Missouri [Mr. TRUMAN] to the committee amendment on page 184, after line 2.

The amendment to the amendment was agreed to.

The amendment to strike out the text as amended was rejected.

Mr. TRUMAN. Mr. President, I now offer an amendment relating to court review, which was read at the wrong point in the bill earlier in the day, and which the Senator from Georgia asked to have deferred.

The PRESIDING OFFICER. The amendment offered by the Senator from Missouri will be stated.

The CHIEF CLERK. On page 175, line 1, before the word "for", it is proposed to insert "to set aside the determination and."

On page 175, lines 2 to 7, it is proposed to strike out the following:

Upon such filing such court shall have exclusive jurisdiction, by order, to finally determine the amount, if any, of such excessive profits received or accrued by the contractor or subcontractor, and such determination shall not be reviewed or redetermined by any court or agency.

And to insert in lieu thereof the following:

Such petition shall constitute the exclusive method of review of such order and upon the filing thereof such court shall have exclusive jurisdiction by order finally to determine the amount, if any, of such excessive profits received or accrued by the contractor or subcontractor; such determination shall be subject to appellate review as in the case of other decisions of the court, but shall not be reviewed or redetermined by any other court or agency; and no suit brought for the purpose of restraining a renegotiation or the enforcement thereof, or the withholding or recovery of any amounts pursuant thereto, or for the purpose of compelling any action in disregard of a renegotiation, shall be maintained in any court, nor shall any renegotiation be set aside or disregarded in any suit or action in any court. The Court of Claims shall not set aside the determination made in the order unless it first appears that one or more material facts stated pursuant to subsection (c) (1) as the basis therefor are wrong or that the determination is based on one or more errors of law. If the determination is set aside by the court, the court shall determine the amount of excessive profits.

And on page 175, line 14, after the words "shall not" it is proposed to insert "except as hereinbefore provided."

Mr. TRUMAN. Mr. President, I should like to make a brief statement with respect to this amendment.

With respect to court review of renegotiations, the Finance Committee's recommendation appears on the surface to differ from the House bill only in one substantial way. It changes the forum from The Tax Court to the Court of Claims. The Finance Committee's recommendation and the House bill alike provide that the proceedings shall begin all over again and that the tribunal shall make a complete redetermination on the basis of proceedings that would probably resemble the trial of a major rate case. But the change of tribunal represents a really fundamental change of concept. The Court of Claims is a real court whose decisions are subject to review on certiorari by the Supreme Court in the same way that decisions of the circuit courts of appeals, for example, are reviewed. The Supreme Court has recently described The Tax Court, on the other hand, as not a court at all but an administrative tribunal. *Old Colony Trust Co.* v. *Commissioner* (279 U. S. 716). The changing of its name from Board of Tax Appeals to Tax Court was purely a nominal change which did not affect its jurisdiction, powers, or status.

Thus the House bill did not actually give the contractor his day in court. Insofar as the Finance Committee's proposal gives the contractor his day in court, I know of no one in the Senate who disagrees with it. If the representatives of the executive branch of the Government act on erroneous facts or misinterpret the law, the contractor should have a right to obtain correction in court. I think that is what the Finance Committee wanted to give him. If that is what it had in fact done I would have no quarrel with it. What the Finance Committee has done, however, is to provide a wholly new and lengthy proceeding that may interminably delay the correction of real error. It would give the contractor not his day in court, but 10 or 20 years in court; and it does not follow that if a day in court is good, 10 or 20 years is infinitely better.

I do not think it was appropriate to provide that proceedings should start from scratch, just as though nothing had happened in the administrative agency, and the whole job of determining excessive profits was up to the court. Renegotiation is, by nature, an administrative function. There must be opportunity to consider informally numerous complex factors bearing upon a fair result, and there must be opportunity to negotiate across the table about them. Many considerations affecting a final conclusion are necessarily developed by a process of negotiation and not by adjudication.

When the results of such a process are brought under judicial scrutiny, it is a proper function of the court to find out whether the complainant has been really hurt by something that was improperly done. It is not its proper function to try to do the job all over again, encumbered by formal procedures, strict rules of evidence, legal standards of proof, ending in the substitution of judicial judgment and discretion for that theretofore exercised by responsible executive officials. The procedures and traditions of the courts do not equip them to do such a job either as expeditiously or as well as the informed and responsible administrator.

The courts should be available to provide relief, and expeditious relief, if the administrative officials have made material errors of fact or of law. But that is quite a different thing from asking the courts to redo the job. Under the bill proposed by the Finance Committee, the Court of Claims is open not only to those who have been hurt through failure of the executive to do its job right, but equally to those with respect to whom the executive has done its job fairly and well. Contractors or their counsel may believe that the court would have a more liberal philosophy than the executive as to excessive profits by reason of being further removed from the grim realities and needs of wartime production. This belief might be particularly justified if the delay of court review should postpone final determination until after hostilities have ceased.

So viewed, a proceeding in the Court of Claims may appear to many to be an attractive gamble, in which the cost of a lawsuit is hazarded against the chance of obtaining a substantial reduction in the amount of profits found to be excessive. Or corporate officials may be under pressure from certain groups of stockholders to pursue, as far as possible, any opportunity to retain larger portions of war profits. These conditions open up a rich field for litigious counsel to exploit. If it is exploited in substantial measure it will be many years before the aftermath of renegotiation is brought to an end. The court will be occupied in reviewing administrative philosophy rather than administrative error, and those contractors who may really have been hurt by errors of fact or law will be required to wait until their turn is reached in the process of grinding through the overloaded docket of the court.

I propose that a contractor who claims to have been hurt by a unilateral determination of excessive profits shall be given an opportunity to show in court that the determination was based on facts which, in one or more material respects, were clearly wrong, or that some error of law was involved in the determination. If he cannot show that the determination was wrong in any such respect, he should not be permitted to burden the court and the Government, or to stand in the way of other claimants who may have a real grievance. The Congress should not invite him to play the hope that the court may be more generous with him on those matters of judgment in which it is always improbable that any two men would arrive at exactly the same figure. There are bound to be factors entering into a final determination of excessive profits upon which there would be variances between the judgments of any two equally honest, able, and fair men, neither of whom would assert that the other was wrong.

The process of negotiation in the executive branch affords ample opportunity to thrash out such matters, to produce facts, figures, arguments and counterarguments, and the final judgment that is made is the upshot of this whole process. If at the conclusion of the process the contractor's only quarrel with the result relates to these matters upon which fair and reasonable men are bound to differ in their judgments, he does not have a quarrel which is appropriately resolved in the courts. Nor can he fairly ask that the time and energy of the court be diverted from the rectification of real grievances to the redoing of a job that has already been properly done.

Let us, then, give the dissatified contractor his day in court. But let us not

have a duplication of all that has gone before. This law has as a primary purpose the discouragement of waste and inefficiency. Let us not have undue waste and inefficiency in its administration. In short, let us have court review only where the contractor can satisfy the court that the determination is based upon material errors of fact or law.

Mr. McKELLAR and Mr. CLARK of Missouri addressed the Chair.

The PRESIDING OFFICER. Does the junior Senator from Missouri yield, and, if so, to whom?

Mr. TRUMAN. I yield first to the Senator from Tennessee.

Mr. McKELLAR. Mr. President, I am frank to say that I believe there should be in the bill a provision which would enable a contractor to go into court. I believe that every Senator will agree with me in that statement. I have not heard any objection to it. But, after reading the bill, I doubt if it contains that exact provision. I am not sure that the provision proposed by the junior Senator from Missouri is exactly the correct approach. But, at any rate, adoption of the Senator's amendment would have the effect of sending the matter to conference, and I am sure the conferees would work it out on a basis which would be satisfactory to everyone. It seems to me that a court provision should be in the bill. I am not opposed to it; I am very much in favor of it. However, I should like to have the matter go to conference so that a proper provision may be worked out.

Mr. TRUMAN. That is exactly what I am asking for.

Mr. McKELLAR. I have the greatest confidence in the chairman of the Committee on Finance and in the conferees. I am quite sure that if the necessary language could be agreed to so that we could send the court provision to conference, it could be worked out in a manner satisfactory to every Senator now in the Chamber.

Mr. OVERTON. Mr. President, will the Senator from Missouri yield?

Mr. TRUMAN. I yield.

Mr. OVERTON. I understand that the contention made by the Senator from Missouri is that under the provisions of the bill as now before the Senate the court would undertake to try these cases de novo. In other words, the court would undertake to perform exactly the functions which the Board originally performed, and therefore the findings of the Board would have no effect and no influence whatever upon the decision of the court. As the Senator has said, the court would undertake to try the case all over again from scratch.

Mr. TRUMAN. That is correct.

Mr. OVERTON. From the experience I have had in the courts, I take it that such a trial would last much longer than would a renegotiation proceeding. I rose to ask the Senator this question: Exactly what effect would his amendment give to the findings of the Board? Would it make out a sort of prima facie case, and then would the contractor reply?

Mr. TRUMAN. That is exactly correct. That is substantially what is intended. The contractor would have the right to appeal to the board which would be set up.

Mr. CLARK of Missouri. Oh, no, no.

Mr. GEORGE. Oh, no; that right is to be taken from him. The Senator's amendment would rob the contractor of any right to appeal from a decision of some field aide. The Senator's amendment would leave the contractor without any day in court.

Mr. TRUMAN. No. Mr. President, as I understand——

Mr. GEORGE. I shall not quibble about this matter, but unless the citizens of this country can have an honest day in court, I do not care whether we have any law on renegotiation or not.

Mr. TRUMAN. I am trying to give them that right.

Mr. GEORGE. No; the Senator's amendment would rob them of their day in court.

Mr. TRUMAN. My understanding is that the contractor has a right to appeal to the board.

Mr. GEORGE. No; he has not. We have taken that right away from him. He may appeal if the board is willing.

Mr. TRUMAN. Does he not have a right to appeal if the board believes he has a reasonable case on which to base his appeal?

Mr. GEORGE. They have asked us not to put that burden on them, because they do not want another administrative review.

Mr. TRUMAN. Does not the contractor also have the right to go to court if there is error of fact or law?

Mr. GEORGE. Yes; he can go to court, and the burden is on him to show that some error of law has been committed in the administration of a purely arbitrary, discretionary statute, the like of which has not been written into our law before.

Mr. TRUMAN. The necessity for the renegotiation law was to reach excess profits while the excess profits were fresh in the minds of the contractors and the minds of those who let the contracts.

Mr. GEORGE. I am telling what it is; it is purely a discretionary act. The renegotiators can state whatever they desire to state. No standards are set up in the act which are binding upon them. It is purely a discretionary law. It gives them authority to look at the case and say, "We think you have received excess profits of so much, and we are going to take them away from you," and the Senator proposes to make their judgment final.

Mr. TRUMAN. Oh, no.

Mr. GEORGE. Oh, yes; the Senator does.

Mr. TRUMAN. I think the Senator is entirely mistaken.

Mr. GEORGE. The Senator is proposing precisely what has been done under 40 New Deal acts since the party came into power, where the judgment of the administrative agency cannot be upset, save for arbitrary or capricious action or fraud.

Mr. TRUMAN. That has been eliminated from my amendment. It gives the court the right of review on the facts, if there is fault, or of law, if there is fault in the legal end of it.

Mr. GEORGE. Who is to decide the facts in a discretionary proceeding, when there is not even a trial, when the renegotiators do not even let the contractors know under what rules their contracts are renegotiated?

Mr. TRUMAN. If the Senator will recall, I offered an amendment earlier in the consideration of the bill which would give the contractor a perfect right to know the rules under which he is operating.

Mr. GEORGE. Such as are published?

Mr. TRUMAN. Yes.

Mr. GEORGE. But they do not have to publish them.

Mr. TRUMAN. The amendment requires their publication.

Mr. CLARK of Missouri. Mr. President——

The PRESIDING OFFICER. The Senate will proceed in order. The junior Senator from Missouri has the floor.

Mr. CLARK of Missouri. Will my colleague yield?

Mr. TRUMAN. I yield.

Mr. CLARK of Missouri. I think it is only fair to say that the only question in issue in this matter was whether, if we are to allow a court review, there should be a requirement that a record be kept by the renegotiation board, and that an appeal be allowed on that record, or whether we should allow a trial de novo. Unless we have one or the other of those procedures, such a right of review as my colleague has suggested is merely a farce, a denial of any day in court, because they have nothing to go upon, while at the same time making the statement that we are giving them a day in court.

I talked with the officials of the Renegotiation Service with great interest, I examined a great many of their cases, and I believe that in the main they have reached very fair results. I asked them whether they would rather keep a record, in the way that any regulatory body is required to keep a record, of the ordinary case for appeal, or whether they would rather have a trial de novo. They said they would rather have a trial de novo, that it would upset their whole procedure to make them keep a record. Judge Patterson himself told me that, so far as clogging the courts with trials de novo was concerned, he believed that if we preserved the right of the Government to counterclaim in these proceedings, the first four or five contractors who appeared in any court claiming they had been unfairly dealt with were likely to be charged such an exorbitant amount on a counterclaim that it would tend to deter others.

My colleague is suggesting not a day in court, for if there is not a record and not a trial de novo, a man never gets a right to try his case. So far as I am concerned, I would rather strike out the whole provision for court review than have a fake court review provision, which I think this amendment would bring about.

Mr. TRUMAN. I do not think there is anything in the amendment which would prevent a review of the main facts, and

the court taking into consideration the work the board had done.

Mr. CLARK of Missouri. How would the court find out what the board had done? The board will not keep a record. I have talked with the responsible authorities of the Renegotiation Board about as much as has the young man who is advising my colleague about the matter.

Mr. TRUMAN. The Senator's colleague has been sitting in on all the hearings.

Mr. CLARK of Missouri. I think Judge Patterson knows something about this subject. Those gentlemen say it would be much better to have a trial de novo than for them to have to keep records, and that unless there is a trial de novo and a record kept there is no way to preserve the court review.

Mr. STEWART. Mr. President, I rise to a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEWART. I make the point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. Does the junior Senator from Missouri yield, and if so, to whom?

Mr. TRUMAN. I yield to the senior Senator from Louisiana [Mr. OVERTON].

Mr. OVERTON. Mr. President, I rose about 30 minutes ago to get some information, and I have not as yet received it. What I wish to ascertain is exactly what is the authority and jurisdiction of the court under the bill as presented by the Finance Committee? Does it start and try a case de novo, right from scratch, just as though no renegotiation had taken place, or whether there had been an agreement or had not been an agreement? Does the court then become the adjudicating body, instead of the agency, and is whatever the agency has done brushed aside? Are all the provisions of the contract gone into by the court? Is evidence submitted under rules of court procedure, and does the court arrive at a conclusion as to how much the contractor should be paid, and how much deduction, if any, should be made from the contract price? May I ask the Senator from Georgia to advise me, if the Senator from Missouri will yield?

Mr. TRUMAN. I am glad to yield.

Mr. GEORGE. Mr. President, the House and Senate provisions as to the jurisdiction of the reviewing tribunal did not materially differ, but the House placed the jurisdiction in The Tax Court.

Mr. OVERTON. Just what is the function of the court?

Mr. GEORGE. We took the matter out of The Tax Court on the earnest insistence of the Treasury and these other departments. I should prefer that it be in The Tax Court, to be perfectly frank, but we acquiesced in the request.

The court reviews, in a de novo proceeding, the facts and any pertinent matter in any renegotiation case, having the power to increase the amount of excessive profits found by the Board or by the renegotiating officer, or it may find the same amount, or lower it. It has full power. The Government has the right of counterclaim. In fact, that is what it comes to.

No appeal is provided in the first instance for the contractor as a matter of right to the War Price Adjustment Board. That has been eliminated. The field examiner, or the field man, can call on a contractor to come in and bring his books. He looks them over, he makes a decision, and he says, "I think you have made so much excess profit." The contractor has no right to have that reviewed by the Board in Washington. The Board may review it, and probably will in some instances, because it wishes to have uniformity of decision. The right of appeal is to the Court of Claims, under the amendment we have adopted, and the proceeding is de novo. The proceeding is de novo because there is no trial of any description by the field examiner, or necessarily by the Board of Review, because it is a discretionary matter. We have not set up standards. The matter is simply one of judgment.

We have said that we give an impartial body the authority and jurisdiction to see that fair treatment has been accorded.

Mr. OVERTON. There will probably be endless litigation unless we place some provision in the bill providing that some administrative tribunal's decision shall constitute prima facie proof, which can be attacked in court. If we undertake to lodge the authority in a court—the Court of Claims in this case—to try a case of this character, go into all the facts, and determine the price the contractor ought to receive, there will be interminable litigation. It seems to me that the Court of Claims would be loaded down with cases which it would take them years finally to determine.

Mr. GEORGE. I do not think so, Mr. President. We took the jurisdiction out of The Tax Court at the earnest insistence of the Treasury, because the Treasury did not want it to interfere with ordinary tax matters. We had to find some court. It is true that the Court of Claims is a court of law, but it is also true that it handles some administrative matters. It has power to appoint commissioners to assemble the facts. We have not permitted cases upon which an agreement is reached to go to the court. We provide review in unilateral cases only.

Mr. McKELLAR. That was the matter concerning which I wanted to ask the Senator. The appeal is taken from the final order of the Board.

Mr. GEORGE. That is correct.

Mr. McKELLAR. In other words, it is not an attempt to substitute the court for the Board at all except by way of appeal.

Mr. GEORGE. The appeal is taken from the order of the Board.

Mr. TRUMAN. Mr. President, may I ask the Senator if it is not true that if no agreement is reached—and it takes two parties to reach an agreement——

Mr. GEORGE. Oh, yes.

Mr. TRUMAN. The contractor still has the right of appeal.

Mr. GEORGE. He has no right of appeal to the War Price Adjustment Board. His case may be settled in the field. He can go to the Court of Claims when he cannot reach an agreement with the services.

Mr. TRUMAN. The Board must state the reason for issuing the order when issuing the order, and if the facts are not correct, the contractor has a right of appeal. If the law is violated, the contractor has the right of appeal. That is granted in the amendment I offer, and I will stick to that.

Mr. GEORGE. The Senator is now talking about a purely discretionary statute. The Senator is not talking about a law which requires certain things to be done. He is talking about a statute which simply provides, "You can have renegotiators, and in their discretion they can fix the amount of money that is to be taken back from the taxpayer."

The Senator from Missouri is not as familiar with what is going on as the Finance Committee is.

Mr. TRUMAN. I agree with the Senator, because that is the committee's business.

Mr. GEORGE. The committee was urged not even to permit the contractor to have a plain statement of fact as to why the Board decided the case against him.

Mr. TRUMAN. I am against such practice, and my amendment would take care of that.

Mr. GEORGE. Wait a moment, please. Let me explain to the Senator how arbitrary this thing is and how entirely it is left to the discretion of the renegotiators. They wanted us to strike from the bill the simple requirement that the Board set forth the facts and the reasons for its determination. That has no probative value. It can be received only in the Court of Claims for informational purposes. The services objected to this statement being used for evidentiary purposes.

There is another thing which the Senator does not know. Those agreements which have been closed by contract are closed under an agreement which is marked "restricted" on every page by the renegotiators.

Mr. TRUMAN. But that is not the amendment I offered earlier today making such things public property and open to everyone.

Mr. GEORGE. No.

Mr. TRUMAN. That was the intention of the amendment.

Mr. GEORGE. No; the Senator's amendment does not do that. I am telling the Senator that this is an arbitrary act. The matters are placed in the hands of a board or its delegated agents, and the board can in its own discretion say how much shall be taken away and how much shall be left. We may assume that the renegotiators are fair-minded men; that they are intelligent gentlemen. Most of the men I have met and have had an opportunity to speak to are fair-minded; they are intelligent; they are very honorable. I am not criticizing them. Nevertheless they are charged with the exercise of a discretion, and no standards are provided in the act. Some directives are placed in it now. They are, however, only directives. The House decided, through its committee, that

there should be some court review. They wanted The Tax Court to make the review. I have explained why the Senate committee did not take The Tax Court. If the Senator could have standards placed in the act and detailed findings of facts and conclusions of law provided for, he would perhaps set up the right procedure. But this is not required.

The contractor can carry his case to the Court of Claims, and there is no way to make the proceeding in the Court of Claims anything but a de novo proceeding, because it is bottomed as the exercise of discretionary powers. This is not much of a review, but if the Senator's amendment is adopted, there will be no review under a discretionary statute.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. WHEELER. A short time ago I read the amendment which the Senator from Missouri has offered. I am not familiar with the statute or with the proceedings. Am I to understand that the Board is obliged to make a finding of fact, and set forth its finding of fact?

Mr. CLARK of Missouri. No, it does not have to make any finding at all, and will not.

Mr. WHEELER. Of course, that alters the situation.

Mr. CLARK of Missouri. There is no record at all by means of which the case can be taken up in court.

Mr. WHEELER. None at all?

Mr. CLARK of Missouri. No; no record at all.

Mr. WHEELER. No findings of fact?

Mr. CLARK of Missouri. No. Merely the award.

Mr. WHEELER. I did not understand that.

Mr. TRUMAN. Mr. President, the Senator from Georgia would seem to indicate that I desire to have the contractors drawn and quartered. What I want to do is to prevent having the contractors drawn and quartered. I do not want any implication made to the effect that I do not want to have the contractors receive a just and a square deal. Neither do I want to have develop after this war a situation similar to that which developed after the last war, when we found that unconscionable profits were made on war contracts. I think the figures will justify the actions taken thus far by the renegotiators, and I believe that when a complete survey of the situation is made we shall find that most of the contractors feel they have had a reasonably fair and just deal.

What I am endeavoring to prevent is having an unconscionably long and cluttered-up court review, and having done over again what the Senator has said has been done—the honest and creditable job done by men who have been trying to take care of the interests of the country as a whole.

I now yield the floor.

Mr. CLARK of Missouri. Mr. President, so far as the work of the Renegotiation Board is concerned, I completely agree with what the Senator from Georgia has said, that their procedure has been arbitrary in the extreme; it represents bureaucracy pure and undefiled.

On the other hand, in respect to the results actually achieved, I think there has been a remarkably meritorious performance. I have taken the trouble to examine approximately 150 of the most bitterly contested cases. While possibly there may be grounds for some differences of opinion, I believe that in the main the results which have been achieved are fair to the contractors. In some cases I believe they are more than fair. I have examined such cases as the Timken-Detroit Axle Co. case and the machine-tool case at Cleveland, and some of the other more bitterly controverted cases.

The only question here presented, Mr. President, is whether the companies are to have a court review, and, if they are to have a court review, whether they shall have a bona fide court review, or some sort of process by which a man may never have his day in court. It seems to me to be perfectly plain that either a record must be kept in the hearing below—the hearing before the Board—on the basis of which an appeal may be taken, and during which hearing certain standards are set up and maintained, so that the reviewing court will be able to tell whether proper legal standards have been observed, or else a trial de novo must be had. If neither one nor the other of those is had, the parties will not be able to have a bona fide court review, and they will not have a day in court at all.

I think it would be much stronger and franker for the Congress simply to strike out any provision for court review, and say, "No; this is a bureaucratic process; this is an arbitrary process. We do not intend to give anyone a day in court at all. This is an arbitrary process, necessary as a war measure, for the purpose of keeping down profits." I think it would be much stronger and franker for the Congress to take such a position rather than to say, "We are going to provide for a court review; everyone will have his day in court," and then provide no effective basis for obtaining a court review and a day in court.

Mr. McKELLAR. Will the Senator yield?

Mr. CLARK of Missouri. I yield.

Mr. McKELLAR. I wish to say that I thoroughly believe there should be a bona fide, honest court review. I believe it would be better to have the Board keep a record of the facts, and make a finding of facts, and to provide for appeal from that. I think that would be the quicker and the better way. I simply wish to ask the Senator what he thinks about that.

Mr. CLARK of Missouri. I will say to the Senator from Tennessee that that was my original impression. I always think it is better to keep a record, and then have a review on the record.

But the administrative officers who appeared before our committee, from Judge Patterson down, pointed out that the keeping of a record would result in slowing down and bogging down the whole renegotiation system. They said they would much prefer to have a proceeding de novo in some court, rather than to have the Board keep a record. I became convinced that probably their position was correct.

Frankly, I had started out with the idea that the easiest thing to do would be to compel the Board to keep a record, and to set up certain standards of procedure, so that a court could determine whether the proper standards had been observed—which is all anyone wants to have done, rather than to have the court determine whether certain weight had been given to them.

But, as I say, Judge Patterson told me frankly that if we let them have a trial de novo and provided for the right of the Government to file a counterclaim, and gave the court jurisdiction to reduce the compensation, as well as to add to it, he did not believe any of them would go through the process. I believe that would be the case. It does seem that we must do either one or the other.

Mr. McKELLAR. Mr. President, that is why I thought that any amendment which would result in having the whole matter taken to conference would bring about that kind of procedure. I think the Senator was correct in the first instance when he thought the Board should keep records of these matters, and should form its judgment on that basis.

Mr. CLARK of Missouri. Mr. President, I say to the Senator from Tennessee that so far as I am concerned, so far as my individual vote as one Senator is concerned, I do not intend to vote for any provision which would lead a man to believe that he would be given his day in court, but which in the same motion really would result in snatching it away from him. That is what I believe the amendment provides for.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. CLARK of Missouri. I yield.

Mr. WHEELER. I thoroughly agree with the Senator's first proposition. I think standards should be set up. Records should be made, I believe, in disputed cases. It might be possible to settle many of them without any dispute whatsoever. But when there is a dispute about the matter, the Board should keep a record on the basis of which the Congress itself, if it desired to look into the matter, would have something to consider. If no record is kept, and if the whole matter is simply left to a renegotiator, one man, who will have the responsibility of settling claims involving millions of dollars, just so surely as that is done, will scandals and charges of scandals against the renegotiators creep in, just as occurred after the last war.

In my judgment the procedure set forth here will lead to scandals. I believe that boards should be created, standards should be set up, and findings of fact should be made. From such findings of fact, appeals should be made to the courts, as provided for in the amendment which has been offered. I think any other procedure is a dangerous one.

Mr. CLARK of Missouri. Mr. President, I will say to the Senator from Montana that that was my original opinion; but I became convinced, from the actual procedure, that the establishment of a record, as in the case of ordinary regulatory bodies, possibly would be so cumber-

some as to impede the whole process of renegotiation. I reluctantly decided to favor the only alternative which would afford a court review, which was to afford a trial de novo.

So far as I am concerned, Mr. President, I should prefer to strike out the whole section relative to court review, rather than to provide for a fake court review, such as I believe would be provided under the section.

Mr. WHEELER. Mr. President, I believe the court would be clogged; because I know of many cases which have been pending in the court of appeals and have dragged along there for years. That court will be clogged unless, it seems to me, some standards are set up under the law, and the making of findings of fact is provided for.

Think of the billions of dollars that will be involved under the renegotiation of contracts. As I understand the matter, one man will pass upon the renegotiation. One negotiator might agree to one thing, another negotiator might agree to something else, and another might agree to something else. To a large extent, one man will have the "say" as to whether millions of dollars should be paid back to the Government or whether they should not be paid back. I think it is an outrageous procedure not to have standards set up and not to have a record of the facts kept.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. CLARK of Missouri. I shall yield in a moment.

First, let me say to the Senator from Montana that I think it is only fair to state that an examination of the actual determinations in the most bitterly controverted cases—I have records on 150 of them, I suppose, in my file downstairs, and except for the necessity of disposing of this measure promptly, I should be glad to get them and to read the records in some of those cases—shows that no substantial injustice has been done, except possibly in some unusual case.

Even if we provide for a review—which, after all, would set up a way by which a court could review an administrative decision, and would also permit the Government to make a counter claim—I do not believe any large number of persons would go into the Court of Claims, certainly not enough to clog the administration of justice.

Although I started out on the basis on which the Senator from Montana has started, I have reluctantly come to the conclusion that the easier horn of the dilemma is to provide for a trial de novo, rather than to provide for the keeping of a record.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. CLARK of Missouri. I yield.

Mr. HATCH. I rise because I have been confused by the various statements which have been made. Like the Senator from Louisiana, I did not favor the idea of a trial de novo in the Court of Claims.

Mr. CLARK of Missouri. I did not either, originally.

Mr. HATCH. And substituting the judgment of the court and its discretion for that of the administrative body. I approved the amendment. It seemed to me that the amendment which the Senator from Missouri offered was getting at something to which probably all of us object. I think we all have the same objective.

I notice the following language in the amendment:

The Court of Claims shall not certify the determination—

That is, the determination made against the contractor—

unless it first appears that one or more material facts stated pursuant to subsection (c) (1) as the basis therefor are wrong.

I was puzzled by that statement. I turned to the committee amendment itself. I should like to know whether I am correct. I am seeking information.

The language on page 165, line 14, is:

Whenever the Board makes a determination with respect to the amount of excessive profits, whether such determination is made by order or is embodied in an agreement—

I am told that was stricken—

with the contractor or subcontractor, it—

That is, the Board—

shall, at the request of the contractor or subcontractor, as the case may be, prepare and furnish such contractor or subcontractor with a statement of such determination, of the facts used as a basis therefor, and of its reasons for such determination.

Does not that almost amount to requiring the Board to make a finding——

Mr. GEORGE. That is not a detailed statement of fact at all. It is not intended to be.

Mr. HATCH. It strikes me that that almost amounts to a finding of fact, or a conclusion of law by the Board. The amendment of the Senator from Missouri merely says that the decision shall stand unless the court finds that the statement is wrong, or that there has been an error of law—I presume such as is suggested in the language which I have read. I am not so clear about it.

Mr. CLARK of Missouri. Mr. President, let me say to my friend from New Mexico that the meaning which the Senator suggests for this provision was that which was very strongly advocated by a number of members of the committee; that is, the maintenance of a record, as in a rate case or utility case, so that the court could look at the record and ascertain whether the commission or regulatory body below considered certain elements, and in general what weight it gave to them. That was precisely what the renegotiation authorities said would hamstring the whole renegotiation system and completely destroy it. So as an alternative, the committee finally—I believe reluctantly—decided on a court review de novo. The language which the Senator has just read simply means that there shall be a statement issued in the most general terms. I think that was agreed to by every member of the committee. If any member of the committee has a contrary opinion, I should be glad to hear from him. All that means is that there shall be a general statement that certain general elements were considered. It seems to me that the net result of the amendment proposed by my colleague—and I have great respect for his judgment and for the opinion of the Truman committee—would be simply to throw the burden of proof on the appellant, without giving him any method whatever to sustain the burden of proof. It seems to me that would be the situation, as a practical legal matter. I have tried a great many rate cases. I have sat on both sides of the table.

Mr. BARKLEY. At the same time? [Laughter.]

Mr. CLARK of Missouri. Not at the same time; but in my experience I have been on both sides of the table, representing both public and private interests.

Mr. HATCH. Mr. President, I should like to have the Senator explain what effect that language has. I have read it hurriedly. It seems to me that perhaps we have builded better than we knew.

Mr. GEORGE. Mr. President, the statement referred to cannot be offered in evidence. The Government itself asked us to exclude it from evidence altogether. We simply said that it might be offered as informative. It has no probative value. It is like the statement which the Commissioner of Internal Revenue issues when the Bureau of Internal Revenue makes an assessment against a taxpayer. It sends him a notice saying, "We have assessed you so much."

Mr. HATCH. It might be well if the whole thing were stricken out.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Missouri [Mr. TRUMAN].

The amendment was rejected.

The PRESIDING OFFICER. The bill is still open to amendment.

Mr. BARKLEY. Mr. President, I offer an amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Kentucky will be stated.

The CHIEF CLERK. At the end of page 148, after the amendment of Mr. GEORGE heretofore agreed to, it is proposed to insert:

SEC. 515. Amendment of the Settlement of War Claims Act, 1928.

All payments authorized and directed in paragraphs (9) and (10) of subsection (c) of section 4 of the Settlement of War Claims Act of 1928, as amended, to be made in respect of awards of the Mixed Claims Commission shall be made in full in the order of priority of the said paragraphs and shall have priority over any other payments authorized or directed in paragraphs (8) to (13), both inclusive, of said subsection.

The Secretary of the Treasury is authorized and directed to deposit in the German Special Deposit Account created under the provisions of section 4 of the Settlement of War Claims Act, as amended, all sums the payment of which was postponed pursuant to Public Resolution No. 53 of the Seventy-third Congress (48 Stat. 1267); all moneys deducted by the Treasury for administrative expenses of the office of the former Alien Property Custodian in excess of the sums expended for such purpose; and all interest deposited by the German Government on its bonds (46 Stat. 500) and now held in blocked accounts.

Mr. BARKLEY. Mr. President, this has nothing to do with the tax bill. It is an amendment of the War Claims Act of 1928, which rearranges the priorities set out in the present law, and gives American claimants priority over German claimants in the payments out of the fund created under that act.

I ask the Senator from Georgia if he will consent that this amendment may go in the bill and go to conference. I will say frankly that the Treasury has been unable to give me exact information with respect to the effect of the amendment. If, when the conferees shall have met, it is impossible to obtain accurate information, I will not press the amendment, but I think it should go into the bill so that an effort may be made to work it out in conference.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. McKELLAR. As I understand the amendment does not create priorities as between American citizens?

Mr. BARKLEY. Not at all.

Mr. McKELLAR. It is only in favor of American citizens; but as between American citizens, it sets up no priorities?

Mr. BARKLEY. It sets up no priorities among American citizens, but gives American citizens priority over German nationals in the distribution of the fund.

Mr. GEORGE. Mr. President, I should like to make a statement.

I have no objection to taking the amendment to conference. I have had a conference with the Treasury representatives. Mr. Bell advises me that he doubts whether full information can be assembled by the time the conferees meet. With the understanding that if we have not the information, so as to give us an opportunity to see just what the effect of the amendment will be, we will not be pressed in conference, I shall be very glad to accept it.

Mr. BARKLEY. I appreciate that. I am familiar with Mr. Bell's statement that up to now the Treasury has been unable to secure accurate information. It may involve an examination of the old files of the Alien Property Custodian's Office. There are difficulties connected with it, but if we are not able to resolve those difficulties by the time the conferees reach the provision I will not press the amendment.

Mr. BONE. Mr. President, what is the Senator's proposal?

Mr. BARKLEY. The proposal is to rearrange the priorities in the matter of payments under the War Claims Act of 1928, so as to give American citizens priority in payment over German citizens.

Mr. BONE. Against what fund?

Mr. BARKLEY. Against the funds set up in the War Claims Act of 1928, out of property in part derived from the sale of German property as a result of the last war.

Mr. BONE. It is impossible for us to pass upon a matter of that kind without knowing exactly——

Mr. BARKLEY. I appreciate that; and it is for the purpose of having a little time to look into it that I stated that if we are not able to obtain accurate information by the time the conferees reach that point, I will not press the amendment.

Mr. GEORGE. Mr. President, the Senator from Kentucky has correctly stated what apparently is the whole effect of the amendment, except that it also provides for replenishing the fund.

Mr. BARKLEY. Yes.

Mr. GEORGE. That is incidental, however.

Mr. BARKLEY. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Kentucky [Mr. BARKLEY].

The amendment was agreed to.

Mr. WALSH of Massachusetts. Mr. President, rather than make an extended speech at this late hour, I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks certain memoranda containing information with regard to various aspects of the subject of renegotiation of war contracts.

There being no objection, the memoranda were ordered to be printed in the RECORD, as follows:

AMENDMENTS FAVORABLE TO CONTRACTORS TO WHICH THERE HAS BEEN RAISED NO SUBSTANTIVE OBJECTIONS

HOUSE BILL

1. The separation of over-all renegotiation and repricing.

2. Creation of a joint board.

3. The exemption of agricultural products. (Departments object to inclusion of canners.)

4. The exemption of contracts with charitable, educational, or religious institutions.

5. The exemption of subcontracts under exempt prime contracts or other exempt subcontracts.

6. The increase of the specific exemption from $100,000 to $500,000 of renegotiable volume.

7. The discretionary exemption of standard commercial articles upon the restoration of competitive conditions.

8. The discretionary exemption of any contracts or subcontracts where effective competition exists.

9. The allowance of a fair cost at the exemption line for raw materials and agricultural products in the case of integrated producers.

10. The provision for a redetermination of excessive profits by The Tax Court of the United States. (Changed by Senate Finance Committee to Court of Claims.)

11. Provision requiring renegotiation on the basis of fiscal periods rather than by individual contracts except in extraordinary cases.

12. The setting up of a list of factors to be considered in determining excessive profits.

13. The requirement that the contractor be furnished a statement setting out the facts used as a basis for the determination and the Board's reasons for the determination. (Departments request limitation to cases where no agreement has been reached.)

14. The setting of an earlier date for the termination of renegotiation. Under the existing law renegotiation continues for 3 years after the war. Under the House bill it terminates with the end of the war.

SENATE FINANCE COMMITTEE

15. The exemption of construction contracts awarded as a result of competitive bidding.

16. The clearer separation of the renegotiation and repricing provisions.

17. The exemption of contracts and subcontracts with certain public utilities and common carriers.

18. Making retroactive the amendments exempting agricultural products, contracts with charitable, religious, and educational institutions, subcontracts under exempt prime contracts, and the amendment providing a fair cost allowance at the exemption line for raw materials and agricultural products in the case of integrated producers.

COMPLAINTS AGAINST THE LAW

There are two sources of particular complaint:

1. The man who has a sufficient amount of dollars left of paper profits, but where these profits are invested in fixed assets of various kinds and he is left short of cash with which to pay his taxes and to refund excessive profits. Illustration of this would be in the case of a small company up near Philadelphia, which had some $10,000 of capital which went into the war effort. It borrowed $50,000 and bought $50,000 of machinery and equipment. With that machinery it did a total business in 1942 of $735,000, all subcontracts, on which it made a profit of $435,000. The Board reviewed this case and recommended the refund of $400,000 out of the $435,000, leaving the company with $35,000 profit on $335,000 of business after deducting the $400,000 price reduction or supplying over 10 percent on a very simple manufacturing operation. And of course this $35,000 represented over 300 percent on the capital with which the man started in business, and after deduction of salaries of some $50,000 to the promoter and his principal associate. Now the refund of this $400,000 in terms of cash couldn't be made by this particular manufacturer without liquidating some of his inventory or selling some of his machinery that he had purchased and he was not in a financial position to make this refund.

There are dozens of cases of that character on varying scales where the man has taken a much larger portion of his war profits and invested them in expansion of his plant and found himself frozen. The renegotiators have recognized this situation and have in some cases arranged for a loan through the War Production Board, or in certain cases have arranged for the acquisition by the Government of fixed assets originally acquired by the contractor, or for V-loans to the contractor.

Plans are also being worked out with the cooperation of the R. F. C. to provide for loans on facilities purchased for Government work where the obligation of the contractor would be limited to the value of the facility itself. In other words, a mortgage without an accompanying bond.

2. The other class of cases where complaints are filed are as follows: In a limited class of cases where the increase in value of business has been relatively small, for example from 100 percent to 200 percent, increase in value of business, and with generally increase in net profits before taxes of from 200 percent to 300 percent, the increase in the tax rate is such that the contractor has less net profit after taxes than he made during his normal or base period years. These cases are relatively small in number. They include such companies as General Motors, du Pont, United States Rubber, Goodrich, and a number of other large, well-established companies that did not increase their volume and did not increase their margin of profit to a degree sufficient to balance the additional burden of greatly increased war taxes. In addition to these larger companies, there are a number of smaller companies of which a box company in Baltimore is a typical example. In this case, the contractor's average earnings in the base period on approximately a million dollars a year of business amounted to $100,000 per year. As a result of the war, his volume increased to approximately $2,-

000,000, and his profit went from $100,000 to $250,000, an increase not only in the amount of profit, but also in the rate of profit. However, his net profit in 1942 after payment of 90 percent tax on his additional increased earnings was substantially the same as it was during the base period years.

In renegotiation, the Board took the position that the additional business which he did as a direct result of the war should be done at a slightly lower margin of profit than he had realized on the business in peacetime and suggested a modest return of excessive profits. This particular contractor objected very seriously, on the ground that he couldn't have made excessive profits when the dollars he had left after payment of taxes were no more than average earnings in these years.

HISTORY ON PRICE CONTROL AND RENEGOTIATION

Since the birth of this country the control of war profits has been a burning problem.

In 1777 George Washington wrote a letter to the President of Congress in which he said:

"The matter I allude to is the exorbitant price exacted by merchants and vendors of goods for every necessary they dispose of. I am sensible the trouble and risk in importing give the adventurers a right to a generous price, and that such, from the motives of policy should be paid; but yet I cannot conceive that they, in direct violation of every principle of generosity, of reason and of justice, should be allowed, if it is possible to restrain 'em, to avail themselves of the difficulties of the times, and to amass fortunes upon the public ruin * * *."

In the First World War Congress tried to curb war profiteering by enacting a high excess-profits tax and by providing for a cost-plus-a-percentage-of-cost contracts. It is unecessary to dwell at length on the dismal failure of these two provisions. Merchants of death became an all too familiar phrase following the 1918 armistice. There were long investigations. There was the revelation of scandalous profits. There were demands that the munitions industry be nationalized. There was the campaign of American Legion to take all the profits out of war. There were the 1924 planks in both the Democratic and Republican platforms to take all the profits out of war. There were 168 bills and resolutions introduced in the Congress to equalize the burdens of war or—to put it bluntly—to rid the Nation of the war profiteer.

Five Presidents endorsed universal service and elimination of war profiteering. Here are some newspaper comments that appeared between the two great World Wars.

First, an editorial that says:

The Senate Munitions Committee has conclusively shown that profits were the cause of the World War. This committee has also proven that Government owned and operated munitions plants and navy yards could produce all of the munitions and armaments needed for adequate national defense at a saving of many millions of dollars to the taxpayers each year, and at the same time remove the danger of death merchants' inspired and conspired wars."

The following is an excerpt from Capper's Weekly of October 3, 1936, captioned "War profits become war debts."

"The prize of war—profits by the hundreds of millions and billions—goes to the munitions makers, and to the international bankers."

Newspaper cartoonists also treated the matter. A typical one by Talburt showed a huge money bag labeled "Profits." On it stood a bloated frock-coated manufacturer labeled "Munitions racketeer" holding another money bag labeled "Bribes" and a sheaf of papers labeled "War propaganda." He was shown staring into the muzzle of a huge cannon labeled "Demand for Government manufacture of munitions." Talburt labeled his cartoon "I wonder if it's loaded."

It still is loaded. If the Government countenances with war profiteering in this war, the cannon will go off.

Within a few months after Pearl Harbor the Nation was again hearing of war profiteering, of fabulous salaries paid to executives and their secretaries out of war profits. War-profit control bill No. 169 was introduced by Congressman CASE, designed to limit profits on all war contracts to 6 percent. Immediately the National Association of Manufacturers started a campaign against this limitation, calling it a strait jacket for industry. The War and Navy Departments, too, and the Maritime Commission feared that if this bill were adopted it would prove a strait jacket which might bankrupt some manufacturers whose products are essential to the prosecution of the war.

At the same time the National Association of Manufacturers was employing a firm to conduct a survey of public opinion regarding war profits. This survey showed that 70 percent of the people of the country thought at that time that the industry was war profiteering.

And what was public opinion regarding restrictions of war profits? On April 4, 1942, the American Institute of Public Opinion released the result of a poll on this question: "It has been suggested that Congress pass laws regulating business firms and profits to a much greater extent. Do you approve or disapprove of this?" The vote of those with opinions on the question (89 percent of the total) was as follows: Approve regulation—77 percent; disapprove—23 percent. Said Mr. George Gallup in connection with this poll: "The truth is that the American public wants an all-out war effort in which everybody from the topmost business executive to the lowest worker is required to make whatever sacrifices are needed, no matter how much it may interfere with cherished principles."

Finally, on April 28, 1942, the War Profits Control Act became effective.

As to why the services are interested in controlling inflation and war profiteering, the answer is simple. High prices stretch to the very front fighting lines on land and on sea. They affect the living standard of the people at home whose sons are fighting. Profiteering has a demoralizing effect upon both the home front and on the war fronts. And maintenance of civilian morale and soldier morale is essential to the successful prosecution of the war.

Over the years—indeed, over the centuries—peoples have struggled to devise means to take the profits out of war. Our Government finally worked out a procedure—not ideal, perhaps, but the best developed so far—to take the profiteering out of war. If this is abandoned or emasculated, the country will be turning its back on very real progress and returning to the era of "merchants of death." It would mean betraying the 10,000,000 men who have been drafted to make every sacrifice known to man.

If control of profiteering is emasculated, if merely the semblance is retained, it will be a terrific blow to the system of private enterprise after this war. For a return of war profits to contractors who have already given them up and failure to control future war profits adequately will not go unavenged by the people.

ENGLISH SYSTEM OF WAR-PROFIT CONTROL

Those who complain about renegotiation and who contend that high taxes will prevent war profiteering would do well to consider alternatives to renegotiation.

Prior to the enactment of what is now known as the Renegotiation Statute in April of 1942 serious consideration was given to placing all war business in a profit strait jacket. A bill to limit war profits to 6 percent had already passed the House by an overwhelming vote. It was never clear as to whether this 6 percent would be before or after taxes or whether it would be on earnings or on net worth. The assumption, however, is that it would be before taxes and would be based on earnings. This conclusion is drawn from the fact that the somewhat similar Vinson-Trammell Act was on this basis.

One proposal actually made in Congress was to limit war profits to only 2 percent—again presumably on sales and before taxes.

After several years of war, during which it experimented with target prices and other schemes, England adopted a unique system but one which would be much harsher on American industry than our present system of renegotiation. It is based on detailed post-costing, which is to say that accountants are constantly swarming through the plants of British war manufacturers. Any system requiring a large army of auditors and accountants would in itself create a problem in this country. With our manpower shortage, we simply do not have enough trained men to do a thorough and detailed post-costing job. Moreover, American industry, even now, is complaining about the number of Government accountants with whom it must deal.

Another aspect of the English system as described in the London Economist of November 6 last is an ingenious formula based primarily on funds employed in connection with the completion of a given contract. In considering the question of a fair return the British have always tended to place emphasis on invested capital, whereas in America we have placed the emphasis on sales.

In the control of war profits the British are running true to form by setting as a fair rate 7½ percent on employed funds or employed capital, "as the yardstick for the riskless costed contract with firms which are considered reasonably efficient." This would sound like cost-plus-a-percentage of cost, but it is to be borne in mind that the 7½ percent is not on cost nor on sales but is on funds employed in the business. This excludes funds represented by idle plants and funds invested in bonds which are simply sitting in the contractor's vaults.

As an incentive to encourage war contractors to increase their efficiency, the British permit additional profits ranging up to 2 percent of sales. This means that the contractor must in effect apply to the government for additional reward for efficiency. He may be awarded a fraction of 1 percent on sales or more—but in no event more than 2 percent.

On government plant and facilities the return to the contractor in England is one-eighth of the return on his own funds employed in turning out war material. That is, he gets one-eighth of 7½ percent on the value of government plant and facilities or a return of slightly less than 1 percent. If the contractor has been awarded as much as 2 percent on his sales of war products turned out by his own plant and facilities, this means that he also gets one-eighth of 2 percent on the volume of sales he turns out with government plant and facilities or one-quarter of 1 percent of such sales.

A little simple mathematics will indicate that this formula provides a very modest return indeed. And it is to be emphasized that all of this is before taxes. As stated by the issue of the London Economist of November 6, the committee of public accountants has reported that profits on costed contracts passed by the Ministry of Supply for 730 firms over a period of 5 months was 9.68 percent on an effective capital of £240,000,000 and equivalent to 6.6 percent on a production cost of about £350,000,000. This means a profit before taxes of about £23,000,000, which is only about 6.2 percent on sales.

"In 1941," says the Economist, "a group of aircraft, engine, propeller and turret firms, employing £50,000,000 of capital and managing £12,500,000 of capital invested by the Government, made a profit of 4.41 percent on a turn-over of £150,000,000. The rate of profit on their own capital was 12.82 percent, and the fee for managing government capital was 1.65 percent on that capital. Corresponding figures for 1942 are not yet available but are expected to show a lower rate of profit."

Clearly by comparison with contractors in England, where there has been longer experience in attempts to control war profits, the American manufacturer fares extremely well after renegotiation.

WHY TAXES CAN'T DO THE JOB OF RENEGOTIATION

It is widely believed that the high excess profits taxes effectively preclude war profiteering.

In World War No. 1 relatively high excess profits taxes were adopted with the view to preventing war profiteering. These taxes went as high as 80 percent in the top bracket. They were not successful in doing the job. About 20,000 millionaires were created by the last war.

It may be said that the excess-profits tax—especially the one proposed in the new tax bill—is higher than the one prevailing in the last war. Even with this higher tax, excessive profits would be realized on a scandalous scale were it not for renegotiation.

However, there is another aspect of trying to let taxes do the job of preventing war profiteering. In wartime it is imperative to encourage efficiency of production. Efficient production means the economical use of manpower, facilities, and materials, all of which are scarce. It is only human nature when the Government is paying 80 percent of the bill to be careless about costs—to be inefficient in the use of manpower, materials, and facilities. High taxes, therefore, encourage waste. Renegotiation of contracts, however, assures recovery of excessive profits while leaving a profit incentive and a reward for efficiency and economical operation. As the Special Committee Investigating the National Defense Program reported, "The renegotiation procedure can serve a vitally important function in the war effort—the double-barreled function of first keeping over-all war costs at a minimum consistent with the continuance of the American system of free enterprise, and, second, providing effective incentives to war contractors to keep their production at maximum and their costs at minimum levels."

Now as to examples of flagrant war profiteering of the type that can be prevented by renegotiation but cannot be prevented by taxes, unless they are very close to 100 percent.

The minority views presented to the Senate include an appendix listing an even 200 companies, and certain data for each company. These data are, first, net earnings after taxes for the base period—1936 through 1939; second, net earnings after taxes and, third, the percent earned after taxes by each company on its value at the beginning of its 1942 fiscal year based on its own record—in other words the percent earned on net worth. Again, all of these data are after taxes. Forty of these companies who have had war contracts with the Government show over 100 percent earned after taxes in 1942 on the net value of these companies as shown by their books. The highest percent earned by the companies listed is 965 percent and there are several companies that have earned in excess of 500 percent.

These cases have been solely selected from among cases which are in process of renegotiation by the War Department. Similar cases are contained in the files of the Navy and Treasury Departments, the Reconstruction Finance Corporation, the Maritime Commission, and the War Shipping Administration.

A few significant increases in after-taxes earnings bear on this subject. The first company on the list which had earnings in the base period increased its profits in 1942 3.6 times the average earnings for the 1936–39 period. This increase is relatively modest compared with others. No. 5 on the list shows an increase of more than 10 times; No. 7 of more than 11 times; No. 10 from a deficit increased its profits to close to a million dollars; No. 11 shows an increase of more than 14 times; No. 12 of more than 40 times. The after-taxes earnings of No. 33 increased from an average of $750 in the base period to $181,000. This is approximately 240 times. The after-taxes earnings of No. 38 increased from $7,000 in the base period to $1,035,000 in 1942. This is something like 147 times. Among the companies which, on the average, had a deficit during the base period is one which, as a result of the war, had a 1942 net profit after taxes of $1,748,000. Another with a base-period deficit completed business in 1942 with a profit after taxes of $4,375,000. Another went from an average deficit to an after-taxes profit of $15,516,000. Still another went from an average deficit to $33,820,000. Purely as a result of the war, these companies were able to turn their after-taxes deficits into handsome after-taxes profits.

Another group of companies had no base period operations for comparison because they were formed in recent years. One of these had a 1942 after-taxes profit of $1,353,000, and another an after-taxes profit of $5,964,000.

These cases, which could be multiplied many times, seem to indicate conclusively that taxes will not do the job of eliminating war profiteering.

I. RENEGOTIATION AFTER TAXES

One addition to the renegotiation statute appearing in the Senate finance bill prescribes that to the list of factors to be given consideration in the determination of excessive profits shall be added the following language: "Whether the profits remaining after payment of estimated Federal income and excess-profits taxes will be excessive."

This raises two questions. First, what, precisely, does this language mean? Second, if it means that renegotiation shall be on "an after-taxes basis," is the provision sound and wise?

As to the first question, does the language mean that renegotiation shall be on "an after-taxes basis"? If it does mean this, why doesn't it say so? These words are ambiguous. They will provide lawyers with a source of heated argument and therefore hamper the whole process of renegotiation by putting it in the debating-club category. Administration of any law is either difficult or expeditious depending in large measure on the clarity of the law. To ask a department to administer a law which is ambiguous is placing an undue burden on that department. Here is a law being administered by six departments. True, there is a Joint Price Adjustment Board to resolve questions of policy and interpretation. The joint Board was set up to attain greater uniformity of administration. Congress is rightly insistent upon maintenance of uniformity of administration. But by this ambiguous language the departments are being impelled into legal debates as to what is meant. Congress is rightly insistent upon the expeditious completion of renegotiation so that uncertainty on the part of contractors can be dispelled rapidly as to each fiscal year on which they are subject to renegotiation. But by this ambiguous language contractors and their counsel would be encouraged to a debate with the administrators as to the interpretation of this language, assuming that the administrators themselves succeed in figuring out what is meant.

And to what avail is this? Is this language proposed because its proponents are hesitant to spell out in unmistakable terms what they mean? Is it proposed because they hope, with this cloudy verbiage to befog the whole issue of renegotiation? Is this part of the emasculation? Is it part of the plan to retain the semblance of keeping faith with the taxpayers of the Nation and the men who are fighting for its life while actually betraying them by making it impossible for the Government to eliminate war profiteering?

The issue of renegotiation must be met head-on. Either renegotiation is desired or it isn't. Either it is to be facilitated or it isn't. If renegotiation in some form or other is desired, if it is to be facilitated, the departments must be given the best possible instrument—a law which is unmistakable in its mandate to them. Insofar as this part of the law is concerned, certainly, the whole process of curbing war profiteering might be hamstrung.

Now as to the second question. If this language does mean that renegotiation is to be only after taxes, how wise, how sound is such a proposal?

First, how wise? This is part of a revenue bill. But if renegotiation after taxes means what it seems to mean, what is being proposed is that the Government pay the taxes of war contractors—that the Government invite them to evade their just burden of sharing the cost of the war—a burden which everyone else must share. This tax bill would simply set up a tax-evasion mill.

However, if the departments are asked to renegotiate on the basis of after taxes, the right and duty given solely to Congress is abdicated—the right and duty to say what, under a given set of circumstances, the taxpayer's share of the support of the Government is to assume. If, on their own initiative, the departments had originally adopted an after-taxes basis of renegotiation, there would have been real cause for complaint by Congress. Under such a system they would have usurped the prerogative of Congress. For such action would have been tantamount to dealing in a black market of taxes. What does renegotiation after taxes mean, precisely? Doesn't it mean that special allowance is to be made for the taxes a firm would normally pay? Doesn't that in turn mean that the renegotiator simply gives the wink to the contractor across the table and says: "Looks as though Congress dealt you a raw deal on this tax schedule. Looks as though Congress sort of stuck you. But don't worry, pal; we'll fix that. Before this stupid war came along, before Congress said we had to dig down into our jeans to pay for it, in the good old days when taxes were only about 12½ percent, you used to make a profit after taxes of 10 cents on every dollar of sales. Now, in 1942, your sales jumped eight times, to be sure, and your costs per dollar of sales went way down because of the increased volume. But, poor soul, your tax base is simply terrible. Congress thought it was smart when it worked out the tax base schedules, but we'll fool them. We'll leave you with your 10 cents of profit on every dollar of sales after taxes. That means only about 50 cents on every dollar of sales before taxes, and fixes it so that even though your volume is up, and your dollar tax is somewhat greater, you really make out pretty well. Don't say anything, pal, but we sliced the daylights out of your competitor, Smith & Jones, because his taxes were pretty low. He had a high tax base. We fix the taxes corporations have to pay to suit ourselves. This is the tax-evasion mill."

Yes; had they adopted this policy, the departments would have gone beyond the limits of their authority.

One thing that must be remembered is that this is not a taxing, nor a revenue-raising measure. It is a pricing statute. It might

be called a hindsight-pricing statute. In peacetime, competition forces reasonable pricing. In wartime, there is no such thing as competition when the Government needs all of everything it can get. Industry is on a monopolistic basis. The law of supply and demand is cut in half and becomes only the law of demand. Normal economic forces no longer apply. Renegotiation is a substitute for them—a substitute designed to bring down prices prospectively or retrospectively to a point where—were real competition still in effect—they would promptly descend anyway. Rates of utilities and railroads—in themselves monopolies—are regulated. This is regulating rates charged by industries which are monopolies for the time being. They couldn't be regulated in advance. Nobody knew what costs of new articles and costs of old articles made in unprecedented volume might be. The crying need was for matériel of war. The cost be damned. Now that there has been a chance to get organized, attention is being paid to cost—still on the first year of war production—even though this is the third year of war. New items are being constantly developed. If American inventive genius is what everyone knows it to be and hopes it will continue, new items to whip the enemy will continue to be developed. The country continues to need this hindsight-pricing statute. Moreover, American businessmen—in their own reasonable interests—are concerned about all sorts of contingencies and in their pricing to the Government still insist on providing for all manner and sorts of contingencies. But who knows whether these contingencies will develop? For this sort of situation, there is still need of a hindsight-pricing statute.

No, this is not a revenue measure but a pricing measure. And as such, there is a close relationship between the original price and the adjusted price. But that relationship disappears entirely if in the original price the contractor's tax base is to be ignored but in the final adjusted price it is a factor to be considered. Why ignore it in the first instance and consider it in the second? And to argue that it should be considered in the first instance would be to argue that our entire system of procurement should be revolutionized. Arguing that the tax base should be considered in the adjusted price is fundamentally just as revolutionary. Either argument is merely saying: Mr. Contractor, please post a large sign over your plant stating what your tax base is. This will give contracting officers the tip-off as to what prices to give you for your products.

Incidentally, too, it will give the tip-off to your employees as to how they are to bargain with you and to your customers and to your suppliers. This system of procurement, of pricing on the basis of a supplier's tax, if pursued to the ridiculous but logical extreme, would be like asking procurement officers suddenly to carry on their dealings in the Chinese language.

Finally, there is the question of uncertainty. As though there were a law prohibiting them from volunteering for renegotiation—from having that aching tooth yanked out, contractors have complained that they are being left uncertain as to their profits. But what of the long period of waiting, of uncertainty if renegotiation is to be on a basis of "after taxes"? Any number of corporations file requests to defer their income tax returns for many months after the end of their fiscal years. As taxes become more complicated, and the task of the Bureau of Internal Revenue more arduous, many returns will not be audited for several years after the end of the corporation's fiscal years. Then there will be a further waiting to determine the effect on the after-tax income of the carry-back-of-losses provision. To hear contractors wail about the need for reconversion reserves, the losses they are going to be able to carry back will be stupendous. So they wait around for that determination. And finally, years later—years of nights when contractors have trembled in the dark of their uncertainty—renegotiation can finally commence. If this is to be the system, the present price adjustment boards should be disbanded and called back—if they will come—in 1946 or 1947 or maybe later after the final audits are in and the last tax adjustments have been made.

No; if this language means what it seems to say, then it should be said point blank. But if it means what it seems to say, it would be better if it were not said at all. For it is not wise for Congress to abdicate its taxing power, nor is it sound to do part of procurement on a before-tax basis and another part on an after-tax basis and—into the bargain—to impose even greater uncertainty upon contractors than that of which they already complain. In writing a revenue bill, creation of a tax-evasion mill defeats the original intent. In dealing with procurement, uniformity straight across the board is imperative, with the same rules fixed to apply both to original pricing and subsequent repricing.

II. RENEGOTIATION AFTER TAXES

A proposed change in the renegotiation statute would prescribe that in the determination of excessive profits consideration be given to whether or not "profits remaining after payment of estimated Federal income and excess-profits taxes would be excessive."

If this means that renegotiators are to make adjustments for the impact of income and excess-profits taxes which would fall on a war contractor, it means abrogation of the carefully determined tax schedules worked out by Congress. It would mean, in effect, that just because one company had a higher tax than another it would be paid a higher price for its products than the other.

What, actually, would be done in renegotiating certain cases?

Here is a company that in 1942 made $213,000 after taxes and after renegotiation. Two hundred and thirteen thousand dollars does not seem like a great deal of money for a company that has made an important contribution to the war effort. Some people might say that this could not conceivably represent excessive profits. But what are the rest of the facts? Its sales volume increased by more than 20 times over the average level of the base peace years, 1936–39. Its profits before taxes increased almost 40 times. Its profits before taxes represented 34 cents on every dollar of sales. The question is whether such a picture represents excessive profits.

As a matter of fact, this company was renegotiated and returned to the Government $460,000. Even after renegotiation, the company's profits before taxes was $388,000—almost 40 times the average of the 4 base years. After both renegotiation and taxes, the company still had a net profit of more than 8 times the average in the peacetime base years and more than 40 percent of the value of the company at the beginning of 1942, as shown by its records (net worth). This company has no reconversion problem as its products are the same as before the war. Salaries and dividends have increased substantially.

Another company—American Tube Bending Co.—complained before the House Ways and Means Committee about renegotiation. Without renegotiation, this company would have made only $130,000, after taxes. Would this be regarded as excessive? It represented only about four and one-half times the peacetime average of $29,000, after taxes. Without other facts, however, can it be determined whether the company earned excessive profits?

As a result of the war, sales ballooned nearly 11 times the peacetime average. Profits before taxes were nearly 13 times as much—$473,000—compared with $37,000. These results were achieved after deductions from profits of salary increases for the 2 owner-executives, 1 of whom took $79,000 in 1942, against $29,000 in 1941. These results were achieved during a year when the company repaid a $25,000 mortgage and paid $57,000 on its stock, 90 percent of which was owned by the same 2 officers. Operating results show a profit of more than 15 cents on every dollar of sales from war business. Such a ratio may not seem high, but even after renegotiation and taxes the profit was 43 percent on the value of the company at the beginning of 1942, as shown by its records—net worth. When this return on net worth is compared with the less than 3 percent return before taxes on money which the people are being asked to loan to the Government in the prosecution of the war, the profits seem inordinate. Before renegotiation, but after taxes, the profit represented more than 67 percent of the net worth of the company at the beginning of the year.

Were this change put into effect, what would be done in the case of a manufacturer of valves, fittings, and heating apparatus which is now engaged in turning out the same products for war purposes? Its sales volume increased only about two and one-half times over the average of the base years and net profits, after taxes, were only about twice those of the base period. On the surface, this would not seem like a startling example of war profiteering. It is conceivable that no renegotiation would be indicated if only those earnings after taxes were to be considered.

Looking under the surface of these facts, however, it is learned that the company agreed to the refund of $4,250,000 regarded as excessive. While sales volume increased only two and one-half times, profit before taxes—largely as a direct result of the war—increased six times. Indeed, this company had slightly more nonrenegotiable business in 1942 than it had in its base period. Its renegotiable business was slightly more than its nonrenegotiable and thereby represented pure velvet in terms of volume. On this increase of sales, profits before taxes increased six times. On renegotiable business alone the company made before taxes about three times what it made in its average base peacetime year. In peacetime it made an average of about 7 cents on every dollar of sales, while on renegotiable business alone in 1942 it made over 18 cents on every dollar of sales. Profits on renegotiable business were scaled down to 14 cents on every dollar of sales. Such a profit would seem to represent a liberal return to the company and a reasonable deal for the Government.

The question of whether or not renegotiation should be after taxes involves the fundamental problem of whether companies are to be allowed and even encouraged to avoid paying the taxes which Congress said should apply to them.

FAIRNESS OF RENEGOTIATION BOARDS

Many loose charges have been made about renegotiation being arbitrary or unfair. These charges are wholly unfounded. The hearings before the Truman committee, the House Naval Affairs Committee, and the House Ways and Means Committee entirely failed to support any accusation of arbitrary action. While contractors have taken exception to the renegotiation law and to the findings of the Board, no contractor has testified that the Board was arrogant or high-handed or tyrannical or that he was harassed and placed under duress by the Board. On the contrary, contractors have frequently spoken of the high caliber of men who serve on the Price Adjustment Board and the courteous treatment they received.

The Truman committee investigated the administration of the law and its report contains the following statements:

"The administration of the renegotiation law during the first 10 months of its existence has been characterized by two significant accomplishments: (1) The assembly in Government of an unusual group of able,

conscientious, and patriotic lawyers, accountants, and businessmen as administrators of renegotiation" (p. 2, S. Rept. No. 10, pt. 5).

The House Naval Affairs Committee investigated the administration of the law and its report contains the following statement:

"It would be unfair to the price adjustment boards not to refer to the fact that, without exception, every business executive who appeared before the committee whose companies had been renegotiated had nothing but praise for the fair and equitable treatment which they had received from the price adjustment boards. They had no quarrel with the boards as such, or with their members; such complaints as they had were directed to provisions of the law which particular contractors deemed unfair or inequitable. We, too, were impressed by the members of the boards who appeared before us, by the sense of fairness and the feeling of responsibility to both the public and industry which they exhibited, and by the careful reasoning upon which their judgments apparently rested" (p. 17, H. Rept. No. 733).

The minority report of the House Naval Affairs Committee contains the following statement:

"No representative of industry who appeared before the committee had any criticism to offer with respect to the personnel of the various price adjustment boards, or to the manner in which they had handled any of the actual conferences with the contractors. It appears that the personnel of the price adjustment boards have performed a difficult task in a highly exemplary manner. For this performance of duty high praise is deserved" (p. 63, H. Rept. No. 733).

The following are some of the statements made by contractors who appeared before the Naval Affairs Committee during its hearings June 10 to 30, 1943, inclusive:

John B. Hawley, Jr., Northern Ordnance, Inc., Fridley, Minn.:

"Members of the Price Adjustment Board have my absolute respect; they worked hard on my case, and I mean they worked diligently to get every nickel back for the Government, realizing they would be severely criticized by the committee if they underdid it, and I wouldn't pay it if they overdid it. * * * It has been a question of very close understanding between us and the Board and I want to compliment them on their hard work" (p. 664).

Lewis H. Brown, president, Johns-Manville Corporation, New York City:

"I have personal acquaintance with some of the Board members. I have not met the men with whom my own company has been in renegotiation, but I am informed that they are men of high ability. In my spare time as industrial adviser to the Chief of Ordnance I have had opportunity to observe the character of the Ordnance negotiating officials. I say without hesitation that I do not know a more able and devoted body of officials anywhere in the Government service, in or out of uniform" (p. 539).

J. F. Metten, chairman of the Board, New York Shipbuilding Corporation:

"As far as I am concerned, the Board did a good job. They sent qualified people up to the yard, and of course this is a highly technical and very much involved subject—these changes—and they got the information in detail from the yard and we went down there before them and discussed various points. Of course you never agree on everything, but on the whole we felt that they had been fair and impartial" (p. 562).

C. B. Lanham, Ohio Nut & Washer Co., Steubenville, Ohio:

"We originally had had some misgivings as to how the renegotiations would be conducted. * * * However, in our case we were agreeably relieved to find the Board and Commander Whyte were so able and competent and to have them deal with us in such a fair manner" (p. 602).

Roger Williams, executive vice president, Newport News Shipbuilding & Drydock Co.:

"Our case has been pending since early in January before the Price Adjustment Board, and we have dealt with the Price Adjustment Board only, and we didn't wish to have our hearing here appear as a court of appeals in that case. We wished to handle it independently because we have every confidence in the fairness and integrity of the Navy Price Adjustment Board and have no reason to complain of their action to date" (p. 763).

Roscoe Seybold, vice president and comptroller, Westinghouse Electric & Manufacturing Co.:

"The Board, after reviewing all the information that had been given, told us the amount they felt should be returned as excessive profits. We felt that we had very fair treatment, that we were dealing with businessmen who had the interests of the Government at heart, and at the same time felt the necessity of protecting industry so that they could carry on in war production" (p. 745).

C. R. Tyson, secretary-treasurer, John A. Roebling's Sons Co., Trenton, N. J.:

"Although the renegotiation resulted in a substantial reduction in our 1942 profits, we do not regret having proceeded as we did. Nor does the Roebling Co. have any quarrel with the principle and objectives of the renegotiation statute as administered by the Navy board in our case. Throughout the period of renegotiation, our relations with the representatives of the Navy board were cordial, and we were impressed with their conscientiousness and desire to accord us the most intelligent and considerate treatment" (p. 755).

George R. Gibbons, senior vice president, Aluminum Co. of America, Pittsburgh, Pa.:

"If disciplined, we felt perhaps we had been disciplined by a considered agent of the Government. We found that the Government was intensely desirous of ascertaining the true situation. We felt that they were moved by no considerations outside of the law and the regulations which had been issued under the law" (p. 769).

Francis A. Callery, vice president, Consolidated Aircraft Corporation, San Diego, Calif.:

"I have had a great deal of experience with the Price Adjustment Board of the Navy. I have had many meetings with them. I have gotten to know the members of the Board well. Without exception, they are able, experienced, sincere, and patriotic men. In my many meetings they have invariably dealt with me with courtesy and with patience. Naturally, we have had had many differences of opinion. We still have on general policy matters, but we have a mutual respect for the other's point of view" (p. 779).

Ralph E. Flanders, president, Jones & Lamson Machine Co., and Bryant Chicking Grinder Co., Springfield, Vt.:

"I just want to put in here the fact that we were treated like gentlemen by gentlemen in renegotiation. They had a job to do; the job was a difficult one; they had no precedents. We were the first manufacturers to go through with it, and they did their duty as they saw it, and we did ours as we saw it" (p. 895).

The following are some of the statements of witnesses who appeared before the Ways and Means Committee during its hearings September 9 to September 23, 1943:

Ellsworth C. Alvord, representing the United States Chamber of Commerce, Washington, D. C.:

"The Under Secretaries of War and the Navy, the Chairman of the Maritime Commission, the members and the staffs of the various types of Government boards are men of high integrity. Many of them I know personally and have known personally for many years. I have the highest respect for them. I do not and would not question their sincerity of purpose or motive. They are just as interested in the preservation of our system of free enterprise as I am. I am confident they are doing the best possible job on attempted recapture of so-called excessive profits through renegotiation procedure under the present law" (p. 502).

L. Y. Spear, president, Electric Boat Co., New London, Conn.:

"I deem it proper and in order before proceeding to specific suggestions and comment to state that in all of the dealings of my company with the Navy Price Adjustment Board, we have found its members conscientious, fair-minded, and reasonable from the point of view of their responsibilities under their interpretation of the law. They have seemed to be anxious to arrive at a solution which would be deemed reasonable by us and have consistently treated us with extreme courtesy and afforded us full opportunity to present our side of the case" (p. 575).

FACTORS CONSIDERED IN DETERMINING WHETHER EXCESSIVE PROFITS HAVE BEEN REALIZED

The following statement taken from the joint statement by the War, Navy, and Treasury Departments and the Maritime Commission on the purposes, principles, policies, and interpretations under the Renegotiation Act are illustrative of the general principles followed in determining excessive profits:

"In considering whether costs or profits on war contracts are excessive, the price-adjustment boards are guided by the following broad principles:

"(a) That the stimulation of quantity production is of primary importance.

"(b) That reasonable profits in every case should be determined with reference to the particular performance factors present without limitation or restriction by any fixed formula with respect to rate of profit, or otherwise.

"(c) That the profits of the contractor ordinarily will be determined on his war business as a whole for a fiscal period, rather than on specific contracts separately, with the possible exception of certain construction contracts. Fixed-price contracts are negotiated separately from fees on cost-plus-fixed-fee contracts.

"(d) That as volume increases the margin of profit should decrease. This is particularly true in those cases where the amount of business done is abnormally large in relation to the amount of the contractor's own capital and company-owned plant and where such production is made possible only by capital and plant furnished by the Government.

"(e) That in determining what margin of profit is fair, consideration should be given to the corresponding profits in pre-war base years of the particular contractor and for the industry, especially in cases where the war products are substantially like pre-war products. It should not be assumed, however, that under war conditions a contractor is entitled to as great a margin of profit as that obtained under competitive conditions in normal times.

"(f) That the reasonableness of profits should be determined before provision for Federal income and excess-profits taxes.

"(g) That a contractor's right to a reasonable profit and his need for working capital should be distinguished. A contractor should not be allowed to earn excessive profits on war contracts merely because he lacks adequate working capital in relation to a greatly increased volume of business.

"In determining the margin of profit to which a contractor is entitled, consideration is given to the manner in which the contractor's operations compare with those of other contractors with respect to the applicable factors. Among such factors taken into consideration when applicable are the following:

"(a) Price reductions and comparative prices.

"(b) Efficiency in reducing costs.

"(c) Economy in the use of raw materials.

"(d) Efficiency in the use of facilities and in the conservation of manpower.

"(e) Character and extent of subcontracting.

"(f) Quality of production.

"(g) Complexity of manufacturing technique.

"(h) Rate of delivery and turn-over.

"(i) Inventive and developmental contribution with respect to important war products.

"(j) Cooperation with the Government and with other contractors in developing and supplying technical assistance to alternative or competitive sources of supply and the effect thereof on the contractor's future peacetime business.

"Consideration is also given to possible increases in cost of materials, imminent wage increases, and the risks assumed by a contractor such as inexperience in new types of production, delays from inability to obtain materials, rejections, spoilage, 'cut-backs' in quantities, and guaranties of quality and performance of the product. It is also recognized that a contractor whose pricing policy results in comparatively reasonable profits is entitled to more favorable treatment than a contractor whose pricing policy results in a large amount of unreasonable profits unless this is attributable to reduced costs rather than overpricing. The contractor who maintains only a reasonable margin of profit is subjected to the risks incident to the performance of a fixed-price contract, while the contractor who practices overpricing usually has taken few, if any, of such risks. In the latter case the profit of the contractor should be adjusted in the direction of the fee that might have been allowed under a cost-plus-fixed-fee contract for the production of similar articles.

"The contractor in every instance is given ample opportunity to develop and present facts with respect to all of the above factors and to any other factors which in his particular case may be relevant to the contractor's over-all quality of performance, upon which his profit reward is based."

These factors are weighed by businessmen who, after a review of them, exercise their judgment and determine what in their opinion constitute excessive profits. It is a conclusion arrived at not as the result of any arbitrary or rigid formula, but in the light of the facts of the particular case.

In this connection it should be pointed out that every member of the Board is given a thorough indoctrination course with the main Board in Washington before he is permitted to participate in any case. Initially every case was handled in Washington, and it was only after the securing of men possessed of requisite business judgment that cases were assigned to the regional boards for renegotiation. Furthermore, all cases are reviewed by the Washington Board. This assures a uniformity of result without losing the benefit of elasticity of judgment.

Thus, in one industry, the Army allowed as an average 11.56 percent of sales and the Navy 12.07; in a second industry the Army allowed 11.14 percent, the Navy 12.19 percent; in a third industry the Army allowed 11.17 percent, the Navy 11.23 percent; and in a fourth industry the Army allowed 7.71 percent and the Navy 8.67 percent. These figures clearly refute any contention of disparity of treatment between the War and Navy Departments.

The constant search for a formula to determine excessive profits is easily understandable. It is an attempt to simplify something that is not susceptible of simplification. The elimination of excessive profits is a complicated problem, and experience has failed to produce any simple formula that is a complete solution to the problem. An examination of the cases handled by the Navy board will bear this statement out. The board has not arrived at any workable formula, nor has Congress in the years past with its fixed profit limitations. It is as impossible to lay down a formula for elimination of excessive profits as for an artist to give you his formula for painting pictures.

At the time of the enactment of section 403 in its original form, Congress had before it two bills, both providing for a fixed formula: H. R. 6790, providing for a limitation of profits to 6 percent of cost, and the so-called Case amendment to the appropriations act, of which section 403 subsequently became a part. Mr. CASE's amendment was initially introduced as section 402 (a) and provided for a limitation of 6 percent of cost. In the Senate this was amended and a schedule was substituted ranging from 10 percent on the first $100,000 down to 2 percent for so much of the contract price in excess of $50,000,000. Both of these flat formulas were rejected and section 403 adopted. In this connection I would like to read a statement of Secretary Knox before this committee on April 14, 1943, in opposition to H. R. 6790. He said, in part:

"It therefore seems to me that we have two major problems: First, the determination of when profits are or will be excessive—that is the determination of a proper standard; and, second, the discovery of an effective means to prevent profits exceeding such standard. Both problems are extremely complicated. I doubt whether any general rules can be laid down which will fairly apply to all cases. War contracts vary widely in substance and form. Some contracts involving large sums of money may be performed over relatively short spaces of time and with relatively small capital investment; other contracts involving the same sums of money may require several years for performance and also large capital investment. One hundred million dollars of airplanes can be produced much more rapidly than a battleship costing a similar sum. A fair profit under a contract of $100,000,000 performed within 1 year with a minimum capital investment seems to me to be quite different from a fair profit to be allowed on a contract for the same amount of money, completed over a period of 3 or more years and requiring a larger permanent capital investment.

"In determining what profits are excessive we also must consider the treatment fairly to be accorded industries whose plant facilities and working capital are supplied by the Government. Clearly an industry supplying only management should not receive the same profit, whether considered as a percentage of the contract price or as an amount in dollars, as an industry supplying management, working capital, and plant.

"The degrees to which the Government may supply working capital and plant will vary widely, and any treatment of excessive profits must make allowance for such variations. I think we all agree that any profit not really earned, no matter how small, is excessive. The effect of increased volume must also be studied. Profits increase and costs decrease as volume swells. Increased efficiency of operation gained by experience brings about the same result. It is often difficult to make allowances for such factors in advance. The elimination of unnecessary steps and the adoption of short-cuts cannot be foreseen. Costs and profits seemingly reasonable at the start of a contract often become unreasonable after volume and experience have increased. It therefore seems to me that a limitation of profits to a percentage of the contract price does not take into account all the factors which are involved in the different cases."

We must bear in mind that Secretary Knox was speaking with respect to a statute proposing a flat profit limitation of 6 percent. He was afraid, and quite properly so, that such a limitation would work inequities and force contractors into cost-plus-a-fixed-fee contracts, with increasing cost to the Government, in order to counterbalance their ceiling on profits with a floor on losses. He realized that increased costs might be more detrimental to the Government than increased profits.

Thus it would appear that Congress has given due consideration to the so-called formula method of handling excessive profits and rejected it as being inadequate and unsatisfactory.

A similar conclusion must be reached with respect to the statement that the excess-profits tax—which means nothing more than the establishment of another formula—can do the job. The recent report of the Truman committee succinctly answers this point:

"Taxes alone will not do the job because (a) higher corporate-tax rates are likely to encourage higher costs and discourage economical production; (b) no scheme of taxation has been devised which is sufficiently flexible to provide an incentive for efficient low-cost production; (c) a profit percentage which would fairly reward one war contractor with one type of financial structure would bankrupt a second contractor with a different financial set-up, and would provide inordinately excessive profits for a third contractor with a still different financial problem."

No less an authority than Senator GEORGE made the following comment on the floor of the Senate during the course of the argument on the passage of the act initially:

"I have given a great deal of study to the subject and I have reached the conclusion that through excess-profits taxes alone, as we have approached that problem, we cannot completely answer the question of exorbitant profits on war contracts."

It is true that the various price adjustment boards have made mistakes and that they do not have the certainty of a fixed formula to guide them. The mistakes and lack of certainty, which will become less and less as the boards have more experience, will produce fewer mistakes and inequities than a fixed formula. In any event, the guaranty of certainty is not an end in itself and is far less important than the satisfaction of the requirement that, in the public interest, excessive profits upon war contracts be recaptured. War profits are not certain as to time or amount. They are sporadic and irregular, differing widely as between industries and members of the same industry. The absence of certainty and the presence of flexibility and elasticity is not a defect, but an aid in the solution of the troublesome problem of both the recapture of excessive profits and the assurance of a fair return under all circumstances to all war contractors.

MARITIME COMMISSION ADJUSTMENT BOARD

Examples of high increase in dollar profits in 1942 over the base period, along with high percentage earned on net worth in 1942

[All before renegotiation]

Company	Net earnings after taxes		Percent earned on net worth, after taxes, 1942
	Base period	1942	
1	535	23,344	55.9
2	15,000	149,494	27.7
3	1,500	64,000	58.0
4	Deficit	395,000	311.3
5	16,000	465,000	97.6
6	488,000	1,320,000	19.6
7	120,000	1,165,000	20.7
8	Deficit	642,000	14.9
9	Deficit	96,000	86.7
10	509,000	1,112,000	25.7
11	Deficit	153,000	18.6
12	20,000	789,000	121.2
13	61,000	244,000	34.6
14	2,000	254,000	38.9
15	93,000	250,000	13.2
16	Deficit	376,000	32.9
17	Deficit	210,000	135.0
18	Deficit	209,000	524.2
19	22,000	125,000	46.1
20	60,000	379,000	109.7
21	Deficit	1,603,000	64.5
22	Deficit	2,591,000	60.6

Examples of high increase in dollar profits in 1942 over the base period, along with high percentage earned on net worth in 1942—Continued

[All before renegotiation]

Company	Net earnings after taxes		Percent earned on net worth, after taxes, 1942
	Base period	1942	
23	Deficit	263,000	60.5
24	11,000	246,000	38.4
25	39,000	214,000	39.0
26	48,000	150,000	15.7
27	(1)	179,000	23.7
28	553	324,000	131.1
29	2,000	119,000	43.3
30	(1)	100,000	26.9
31	(1)	147,000	40.0
32	(1)	470,000	49.4
33	(1)	1,447,000	45.7
34	(1)	945,000	263.6

[1] Base period figures not available.

For examples of high increase in dollar profits presented by the United States Army Adjustment Board, see minority report of the Finance Committee on the subject of renegotiation of war contracts.

Examples of high increase in dollar profits presented by the Navy Price Adjustment Board are found on page 197 of the CONGRESSIONAL RECORD of January 14, 1944.

Mr. WALSH of Massachusetts. Mr. President, before the final vote is taken, I should like to say a word in reference to the chairman of the Finance Committee [Mr. GEORGE] and the attitude of the members of the Finance Committee in their consideration of this important subject.

It is unnecessary to remind Members of the Senate of the difficulties involved, and the complex problem with which we have had to deal in the matter of modifying or changing the existing renegotiation law. It has been tiresome, troublesome, and annoying to all of us. The subject is of such unusual public interest that it has resulted in some of the members of the committee being accused of being favorable to war contract profiteers, and others of being hostile to war contractors.

I wish to say that during all the negotiations in the committee the patience and the leadership of the chairman of the Finance Committee have been fine. The members of the committee had various differences of opinion concerning many of the important features of the law. We voted separately on various amendments. We voted our convictions.

However, after all amendments had been acted upon, some of us thought that the number of amendments which had been agreed to by the committee really nullified the effectiveness of the law. Upon request, the chairman of the committee conferred with those who had widely different views, and called the committee together for further deliberation. We were able to harmonize and bring together, after long study and heated discussions, our divergent views so that all Members, when we finally reported to the Senate, became united and there was general agreement that the amendments proposed finally by the committee were in the best interests of the Government and were fair to the contractors doing war work.

By reason of the fact that some of us felt it our duty to file minority views calling attention to the danger of nullifying this law, it may be possible that some persons, for political or other reasons, may construe that as a reflection upon the judgment and leadership of the chairman and other members of the Finance Committee. I wish to challenge that. I want to say that no Member of this body has been more desirous of enacting a law which will safeguard the interests of the country and be fair to the contractors than has the chairman of the Finance Committee.

As one who joined in filing minority views I wish to emphasize that every member of the committee has a higher respect than ever—if that could be possible—for the chairman of the committee in his willingness to compromise differences of opinion and reach a fair and just decision that would make the renegotiation law an effective instrument in eliminating excessive war profits during the war.

The law is arbitrary. This is necessary if the taxpayers' interests are to be safeguarded during the expenditure of these vast, heretofore unheard of expenditures. The drafting of human life is arbitrary. War necessarily means the abandonment of normal conditions and peacetime safeguards. Under war conditions, with the sacrifices of life and limb of our youth and the sufferings of their kin, we would be insensible of our primary obligations to them and all our citizens to permit excessive profiteering by those who furnish these weapons and supplies to carry on the war. How to do this and do as little injustice as possible is no easy task. After all, all legislation is a matter of compromise. The chairman of the committee showed the magnanimous spirit which we should all display under such circumstances.

Mr. President, I merely wish to say that we owe a real debt of gratitude to the fine judicial qualities of the chairman of the Finance Committee, for the leadership which he has manifested, for his fairness, for his insistence upon what he believes to be right, and for his capacity to follow his conscientious convictions and yet respect the views of others, and to realize that in the last analysis all legislation must be a matter of compromise.

The reason why we are united and why this bill will be passed without any objection is the spirit of leadership which the chairman of the Finance Committee and the united patriotic purpose all its members have manifested. I know I express the sentiments of every member of the committee when I say that we are grateful to him, and that the people of the country owe him a debt of gratitude for his leadership in helping to solve this involved, complicated, and difficult problem, as well as for his leadership in so many other serious tasks which he has had to perform as chairman of this important committee. The happy result of these deliberations is that a real, serious effort has been made to prevent excessive profit making in the future days of this war and to give approval of the services already rendered to accomplish this purpose.

The PRESIDING OFFICER. The bill is before the Senate. If there be no further amendment to be offered, the question is on the engrossment of the amendments and the third reading of the bill.

Mr. DANAHER. Mr. President, the Senator from Georgia will recall that I discussed with him the offering of an amendment which would appear on page 148, after line 25, as follows:

SEC. —. Captal-stock tax terminated.

The capital-stock tax imposed by section 1200 of the Internal Revenue Code shall not apply to any taxpayer in respect of the year ending June 30, 1944, or any succeeding year.

SEC. —. Declared value excess-profits tax terminated.

And further:

The declared value excess-profits tax imposed by section 600 shall not apply to any taxpayer in respect of any income-tax taxable year ending after June 30, 1944.

The Senator from Georgia will recall the witnesses who appeared before the committee emphasizing how unfair this particular tax is. Actually it constitutes a guessing game. It is impossible for small businesses, particularly, without large accounting systems, to estimate exactly what their situation is to be. The result is that while the Government receives a large amount of money, it receives it at the expense of corporations which simply cannot possibly estimate correctly. In that situation the Senator from Georgia has expressed to me a real degree of sympathetic consideration, and I think I may fairly say that he shares my attitude with reference to this proposal.

On the other hand, he has told me that an administrative bill will be brought forward in the spring, and that when it comes along some effective relief can be administered with reference to cases such as these two amendments would reach. In the light of his representations to me along those lines I am not now pressing for action on the amendments.

I ask the Senator from Georgia if I have not sufficiently recapitulated our discussion.

Mr. GEORGE. The Senator has. For a long time I have believed that our capital stock tax should be repealed. I think I may say that the Secretary of the Treasury has the same view. However, at this time there would be an actual loss of revenue unless something were substituted. In fact, I am sure that on more than one occasion the Secretary of the Treasury has expressed himself as being in favor of repealing this tax.

Mr. DANAHER. Mr. President, I thank the Senator from Georgia. In the light of his present observations and my own comment on the subject, which is sufficiently explanatory, I believe, of how we both feel about the matter, I will not offer the amendment. However, I want the RECORD to show the situation.

Mr. GEORGE. Mr. President, if there are no further amendments to be offered, I wish to express my appreciation to the distinguished senior Senator from Massachusetts [Mr. WALSH], who has spoken of my participation in the formation of

this bill. The bill does not provide for the amount of money which the Government needs, or the amount of money for which the President has asked. However, the troublesome part of the bill related to the renegotiation of war contracts. I have never favored the making of exorbitant profits by anyone during the war period.

Let me say, Mr. President, that when the excess-profits tax was being formulated I sat up nights with the late Senator Pat Harrison, then the chairman of the Committee on Finance. We earnestly sought, through the joint committee staff and through the Treasury, to find a way to differentiate in the excess-profits levies between war profits and profits made in ordinary civilian operations. We were advised that that could not be done. We stated at that time that we wanted a very high tax on war profits. We started in with an excess-profits tax of 35 to 60 percent in the high brackets. We have carried that up to the flat tax of 90 percent, and in the particular bill now pending we are carrying the excess-profits tax up to 95 percent. Ninety-five percent is, under our tax laws, 100 percent, in effect, and substantially in all cases where the average earning base is used as a credit for excess-profits tax purposes.

I very well recall that when the bill for repeal of the Vinson-Trammell Act, which limited war profits, was presented to this body as an administration proposal, I had very grave doubts about it. I think the RECORD will show that I so expressed myself. Now I think that the excess-profits tax, plus the normal and surtax rates, plus the individual income taxes which are imposed on all individual incomes in this country, fairly well take care of the vast majority of cases.

The renegotiators themselves—and I wish to reiterate what I have heretofore said—that I found them to be honorable men, of high purpose—told me that 60 percent of contracts are not renegotiated, taking them by and large. It must be borne in mind that that 60 percent is based upon those contracts which were made immediately after Pearl Harbor, because in the renegotiation of war contracts I do not believe 1942 business has yet been closed. So that we have no view of the 1943 contracts in the contracts which are being made today. But if 60 percent of all contracts have been cleared by the Renegotiation Board, it certainly indicates that the extreme cases which have come to light do not represent, by and large, the attitude of all American businessmen.

Mr. President, despite all the shortcomings of business, and all the shortcomings of certain labor leadership, I believe that American labor and American industry have done a great job, and I do not believe that the motivating force back of the great accomplishment in this war effort has been profits, and profits only. That motive has entered into many cases, unquestionably. I have myself known of some cases in which outrageous profits have been claimed, and in some instances received. I have examined many cases which were brought to my attention in which I thought the renegotiators had acted fairly and honorably. I have seen cases where there has been a very arbitrary course of conduct on the part especially of some of the field men, who have approached citizens as if they were dishonorable, and activated by improper and unpatriotic motives. I have seen such cases, and I have examined into such cases, and they should not occur.

I have the hope that what we have done in the pending bill, in the repricing title, together with the court review provision, will result in a better program in the future on the part of procurement officers of the Government than has existed in the past, which I say without any reflection on them, and I trust they will be able to do a better job in curbing excess war profits which are unreasonable, or even approach the point where any fair-minded person can say that the profits are unreasonable.

While that is true, I can never lose sight of another fact; that is, if there are casualties on the home front, if there are smokeless stacks, if the machinery is silent, if we have destroyed the machine so that when our men come back from the war and come back from war-producing plants they will engage in a fruitless search for jobs, our society will face its supreme test. What will it profit America if she encompasses marvelous attainments all round the globe and yet loses her own soul?

Mr. President, if there are no further amendments to be proposed, I ask that this formal order be made, that the bill be printed with the Senate amendments numbered; that in the engrossment of the amendments of the Senate the Secretary of the Senate be authorized to make such changes in section, subsection, and paragraph numbers and letters, and cross references thereto, as may be necessary to the proper numbering and lettering of the bill; that the Secretary of the Senate make proper amendment to the table of contents to make the table conform to the bill, and that all changes in the table of contents be treated as one amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Georgia? The Chair hears none, and it is so ordered.

The question is now on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question now is, Shall the bill pass?

The bill H. R. 3687 was passed.

Mr. GEORGE. Mr. President, I move that the Senate insist on its amendments, request a conference with the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. GEORGE, Mr. WALSH of Massachusetts, Mr. BARKLEY, Mr. CONNALLY, Mr. LA FOLLETTE, Mr. VANDENBERG, and Mr. DAVIS, conferees on the part of the Senate.

EXECUTIVE SESSION

Mr. BARKLEY. I move that the Senate proceed to consider executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. ELLENDER in the chair) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

The following favorable reports of nominations were submitted:

By Mr. WHEELER, from the Committee on Interstate Commerce:

Joseph B. Eastman, of Massachusetts, to be Interstate Commerce Commissioner for the term expiring December 31, 1950 (reappointment); and

Harry H. Schwartz, of Wyoming, to be a member of the National Mediation Board for the term expiring February 1, 1947 (reappointment).

By Mr. STEWART, from the Committee on Interstate Commerce:

John L. Rogers, of Tennessee, to be Interstate Commerce Commissioner for the term expiring December 31, 1950 (reappointment).

By Mr. McKELLAR, from the Committee on Post Offices and Post Roads:

Sundry postmasters.

The PRESIDING OFFICER. If there be no further reports of committees, the clerk will state the nominations on the Executive Calendar.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask that the nominations of postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations of postmasters are confirmed en bloc.

THE NAVY

The legislative clerk read the nomination of Don P. Moon to be rear admiral.

Mr. WALSH of Massachusetts. I ask that the nomination be confirmed.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. BARKLEY. I ask unanimous consent that the President be immediately notified of all confirmations of today.

The PRESIDING OFFICER. Without objection, the President will be forthwith notified.

LEGISLATIVE PROGRAM

The Senate resumed the consideration of legislative business.

Mr. LUCAS. Mr. President, I rise for the purpose of making an inquiry, through the majority leader, as to what the nature of business will be on Monday next, if the Senate meets then.

Mr. BARKLEY. Mr. President, I have talked with the Senator from Illinois privately about that matter, and I have advised him that I am not ready to answer that question, and I am not

ready to answer it publicly now. I wish to say frankly that there are two important bills in which the time element is significant—the subsidy bill and the soldiers' vote bill. Both bills are on the calendar. The subsidy bill reached the calendar first. It had been my intention upon the conclusion of the consideration of the tax bill to proceed to the consideration of the bill reported from the Committee on Banking and Currency, extending the life of the Commodity Credit Corporation and dealing with the question of subsidies. The bill has come to the floor in such shape that the question of subsidies will have to be fought out here. The time element in that bill is that the life of the Commodity Credit Corporation will expire on the 17th of February unless its life is renewed before that time. There are difficulties connected with that legislation which must be ironed out in conference or on the floor of the two Houses, depending upon the type of bill the Senate passes.

Also, with respect to the soldiers' vote bill, the element of time enters into the calculation, for the reason that on February 3, if no change is made in the law, under existing law the War Department must send out some 13,000,000 notices and cards of information.

Later on, if in the next 30 or 60 days a new law should be enacted, an entirely different kind of card must be sent out to the men and women in the services. So it is important that the War Department, the Navy Department, and all the agencies know exactly what they are to do in order to administer as soon as possible any law which may be passed.

I have stated to many Senators, including the Senator from Illinois [Mr. LUCAS], the Senator from Ohio [Mr. TAFT] and other Senators, that I am not ready to say now what the program shall be. I wish to confer with as many Senators as I can between now and Monday, to see which bill should be taken up first. I am not at this time in a position to indicate my own opinion.

Mr. LUCAS. Mr. President, I wish to express my thanks to the Senator for the very able explanation of the two important bills which are now pending before the Senate. The explanation thoroughly satisfies the Senator from Illinois. I hope in the meantime that we shall be able to take up the soldiers' vote bill on Monday in preference to the subsidy bill.

Mr. BARKLEY. Mr. President, I appreciate the very intelligent interest the Senator from Illinois has shown and the hard work he has done toward a solution of this problem. It is one of the most important questions facing Congress. I have found in mixing among the people in my own State and in other States that there is no subject which they are discussing more universally than the question of if and how we are to provide methods by which the soldiers and sailors and others in the armed services shall vote. I personally have great sympathy for the Senator's desire, but I do not wish at this time to say dogmatically and without reservation what the course shall be.

Mr. LUCAS. Mr. President, I thoroughly appreciate the position the Senator is in. I simply wish to make one further observation with respect to the two measures now pending before the Senate. From my knowledge of the legislation involving the right of the soldiers, sailors, and marines to vote under a uniform Federal ballot, I am very confident that within 2 days' time we would be able to get a vote in the Senate on the pending bill. Some 3 weeks or more ago, all the controversial measures in the pending bill were debated upon the floor of the Senate for a week.

The Senator from Illinois and the Senator from Rhode Island [Mr. GREEN] have taken every amendment that was agreed to in the Senate, such as the amendment dealing with the ballot commission, the amendment offered by the Senator from Ohio [Mr. TAFT], as revised by the Senator in connection with the War Department, and we have placed those amendments in the pending bill just as they are. In fact, we have further stripped the Commission of any powers other than ministerial, even though by implication there might have been some powers contained in the original bill.

From my conversations with Members on the floor of the Senate, and in view of the thorough understanding and knowledge which everyone has of the pending bill, I believe that within 2 days' time we can dispose of it. I do not believe we are going to be able to dispose of the subsidies bill in so short a time, from what I understand with respect to controversy existing in connection with it.

Mr. President, I hope the majority leader and the minority leader will be able to agree to take up the soldiers' vote bill first, and dispose of it within that short time, and then go from it to consideration of the subsidy program.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. BARKLEY. Let me make an observation, and then I shall be glad to yield. I understand that many, if not most, of the controversial features of the former bill which was defeated by adoption of a substitute have been eliminated from the new bill. Members have come to me from both sides of the Chamber, some who are members of the Committee on Privileges and Elections, and others who are not members of the committee, and have stated that they now are in favor of the bill reported by the committee. Some of them are rather enthusiastically in favor of it. That is a circumstance which ought to militate toward prompt action on the measure in the Senate. There are other Senators, however, who entertain a different view.

I now yield to the Senator from Ohio.

Mr. TAFT. Mr. President, so long as the Senator from Illinois has expressed an opinion, I wish to state that, in my opinion, it will take a full week to debate again the soldiers' voting bill. The Senate has already passed the soldiers' vote bill. It has gone to the House. The House committee has reported it. It will be considered by the House on Wednesday. The bill in its original form has been defeated in the Senate. The bill has gone to the House, and the House committee has acted. It seems to me to be a most extraordinary procedure now to propose that the Senate take time from very necessary legislation on other subjects to go back over the whole ground and again take up the same questions which were previously raised.

Mr. President, I feel that exactly the same issues are involved in the bill now proposed as were involved in the previous bill. None of the controversial issues have been removed. We are going to have the same debate on the constitutional issue. I personally expect to make a much stronger presentation of the constitutional issue than I made previously. The assumption that the bill is going to take only 2 days is certainly a gratuitous assumption, and one which none of us can be certain of.

Mr. BARKLEY. Mr. President, of course, we all realize that in the Senate no one can safely assume that any sort of measure can be passed very rapidly if Senators do not desire to see it enacted rapidly. I do not know whether the House is going to take up the bill on Wednesday. That may depend on whether the Rules Committee reports a rule making it in order on Wednesday. I have no information on that subject. I hope that by Monday we will be a little out of the fog with respect to the matter, so as to proceed one way or the other.

Mr. WHITE. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. WHITE. I am quite happy that the Senator from Kentucky has not pressed the matter to a conclusion this evening. One of the great difficulties is that none of us has as yet seen the bill which has been reported, in the precise draft in which it will come to the Senate floor for consideration.

I had rather assumed that perhaps the objections had been removed, but I also knew there were serious objections on the part of some Members of the Senate with respect to both constitutional provisions and detailed and practical considerations which the bill raises.

I think the Senator from Illinois will be disappointed in his hope that the bill will be disposed of in 2 days; but I recognize that the matter is one which must be considered at some time.

Mr. BARKLEY. Mr. President, I appreciate the attitude of the Senator from Maine. I had no purpose at any time to move for consideration of the bill today, or to move that it be made the unfinished business. The whole matter will go over until Monday.

Mr. LUCAS. Mr. President, will the Senator further yield?

Mr. BARKLEY. I yield.

Mr. LUCAS. I rose only to seek information. I did not desire to press any point.

Mr. BARKLEY. I understand that the Senator from Illinois had no purpose to press for action of any sort today.

Mr. LUCAS. No; not at all. I was anxious to ascertain just what would be the business, if any, which the Senate would take up on Monday, because I am quite interested in having a uniform Federal ballot for the members of the armed forces, both those in this country

and those outside the continental limits of the United States.

I am very much interested in the short discussion had with my able friend, the Senator from Ohio. I am glad to know he will make a constitutional argument, because he supported my bill before, and I know he will do so again if he makes the kind of argument he has said he will make. I should be glad to listen to him for several days if he discusses the constitutionality of the question.

However, when the Senator from Ohio says the procedure is an extraordinary parliamentary one, I must say that the Senator is not familiar with the precedents. I have gone into that question rather thoroughly, and I believe I know what I am doing, from a parliamentary angle, in connection with attempting to get the bill before the Senate again. There is one precedent after another for taking up a bill in such a way, and there is nothing extraordinary about it.

Senators will be able to debate the bill for a week, I suppose. That will be perfectly all right with me, if that is their desire. However, I say in all sincerity that we debated the amendments for one full week. We debated the provisions relative to the ballot commission for 2 days. We debated for 2 days the Taft amendment relative to publicity and political propaganda. With all due deference to what the Senator from Ohio has said, let me say that in the bill I have placed the amendments just as the Senate agreed to them. So, why there should be a week of debate, unless Senators desire to discuss the constitutionality of the matter at this time—and I admit it was not discussed very much before, but probably should have been—is another question.

I thank the Senator from Kentucky for giving me an opportunity to speak at this time.

Mr. BARKLEY. Mr. President, during the previous proceedings on the subject the Senator from Ohio made a very strong constitutional argument. If he desires to make another one with respect to this bill, I am sure it will be well worth listening to.

Mr. LUCAS. Yes, Mr. President; and I shall be right at the Senator's feet when he makes his argument. I, too, am sure it will be well worth listening to.

ADJOURNMENT TO MONDAY

Mr. BARKLEY. I move that the Senate adjourn until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 6 o'clock and 13 minutes p. m.) the Senate adjourned until Monday, January 24, 1944, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate January 21 (legislative day of January 11), 1944:

DIPLOMATIC AND FOREIGN SERVICE

Charles E. Hulick, Jr., of Pennsylvania, to be a Foreign Service officer, unclassified, a vice consul of career, and a secretary in the Diplomatic Service of the United States of America.

TEMPORARY APPOINTMENTS IN THE ARMY OF THE UNITED STATES

TO BE LIEUTENANT GENERALS

Maj. Gen. George Grunert, United States Army, now invested with rank and title of lieutenant general by virtue of his assignment to command the First Army.

Maj. Gen. Walter Bedell Smith (lieutenant colonel, Infantry), Army of the United States.

TO BE MAJOR GENERALS

Brig. Gen. Howard Calhoun Davidson (colonel, Air Corps), Army of the United States.

Brig. Gen. Walter Ernst Lauer (lieutenant colonel, Infantry), Army of the United States.

Brig. Gen. John Edwin Hull (lieutenant colonel, Infantry), Army of the United States.

Brig. Gen. Allison Joseph Barnett (lieutenant colonel, Infantry), Army of the United States.

Brig. Gen. Fay Brink Prickett (lieutenant colonel, Field Artillery), Army of the United States.

Brig. Gen. Philip Hayes (colonel, Field Artillery), Army of the United States.

Col. Virgil Lee Peterson, Corps of Engineers, now the Inspector General, with rank of major general.

Brig. Gen. Clarence Hagbart Danielson (colonel, Adjutant General's Department), Army of the United States.

Brig. Gen. Arthur Riehl Wilson (lieutenant colonel, Field Artillery), Army of the United States.

TO BE BRIGADIER GENERALS

Col. Walter Wood Hess, Jr. (lieutenant colonel, Field Artillery), Army of the United States.

Col. John Alexander Samford (captain, Air Corps; temporary lieutenant colonel, Air Corps; temporary colonel, Army of the United States, Air Corps), Army of the United States.

Col. Willis McDonald Chapin (lieutenant colonel, Coast Artillery Corps), Army of the United States.

Col. John Nicholas Robinson (lieutenant colonel, Infantry), Army of the United States.

Col. Arthur Edmund Easterbrook (major, United States Army; temporary colonel, Army of the United States, Air Corps), Army of the United States.

Col. Henry Hutchings, Jr. (lieutenant colonel, Corps of Engineers), Army of the United States.

Col. Herman Feldman (lieutenant colonel, Quartermaster Corps), Army of the United States.

Col. Leonard Louis Davis (lieutenant colonel, Coast Artillery Corps), Army of the United States.

Col. Robert Oliver Shoe (lieutenant colonel, Infantry), Army of the United States.

Col. Joseph Ignatius Martin (lieutenant colonel, Medical Corps), Army of the United States.

Col. Edward Fuller Witsell, Adjutant General's Department.

Col. George Maurice Badger (lieutenant colonel, Coast Artillery Corps), Army of the United States.

Col. Earl Maxwell (major, Medical Corps; temporary colonel, Army of the United States, Air Corps), Army of the United States.

Col. John Reynolds Hawkins (major, Air Corps; temporary lieutenant colonel, Air Corps; temporary colonel, Army of the United States, Air Corps), Army of the United States.

Col. Ralph Hamilton Tate (lieutenant colonel, Chemical Warfare Service), Army of the United States.

Col. William Seymour Gravely (lieutenant colonel, Air Corps; temporary colonel, Air Corps), Army of the United States.

Col. Lester DeLong Flory (lieutenant colonel, Coast Artillery Corps), Army of the United States.

Col. Guy Blair Denit, Medical Corps.

Col. Laurence Bolton Keiser (lieutenant colonel, Infantry), Army of the United States.

Col. Thomas Sherman Timberman (major, Infantry), Army of the United States.

Col. William Elbridge Chickering (lieutenant colonel, Adjutant General's Department), Army of the United States.

Col. Edward Raynsford Warner McCabe, United States Army.

Col. Davis Dunbar Graves (captain, Air Corps; temporary lieutenant colonel, Air Corps; temporary colonel, Army of the United States, Air Corps), Army of the United States.

Col. Harry Frederick Meyers (lieutenant colonel, Coast Artillery Corps), Army of the United States.

Col. James Edward Moore (major, Infantry), Army of the United States.

Lt. Col. Paul Lewis Ransom, Infantry.

Col. Arthur Henry Rogers (lieutenant colonel, Infantry), Army of the United States.

Col. Earl Walter Barnes (major, Air Corps; temporary lieutenant colonel, Air Corps; temporary colonel, Army of the United States, Air Corps), Army of the United States.

Col. Clarence Henry Schabacker (lieutenant colonel, Coast Artillery Corps), Army of the United States.

Col. Robin Bernard Pape (major, Coast Artillery Corps), Army of the United States.

Col. Roy Eugene Blount (lieutenant colonel, Cavalry), Army of the United States.

Col. Milton Orme Boone (lieutenant colonel, Quartermaster Corps), Army of the United States.

Col. Michael Frank Davis (lieutenant colonel, Air Corps; temporary colonel, Air Corps), Army of the United States.

Col. Edgar Erskine Hume, Medical Corps.

Col. Thomas North (lieutenant colonel, Field Artillery), Army of the United States.

Col. Robert Tryon Frederick (captain, Coast Artillery Corps), Army of the United States.

Col. Otto Lauren Nelson, Jr. (major, Infantry), Army of the United States.

Col. Frederic Bates Butler (lieutenant colonel, Corps of Engineers), Army of the United States.

Col. William Ayres Borden, Ordnance Department.

TO BE MAJOR GENERAL

Col. John Francis Williams, Field Artillery, National Guard of the United States, now Chief of the National Guard Bureau of the War Department, with rank of major general.

TO BE BRIGADIER GENERALS

Col. Ralph Maxwell Immell (brigadier general, Adjutant General's Department, National Guard of the United States), Army of the United States.

Col. Thomas Francis Farrell (lieutenant colonel, Engineer Reserve), Army of the United States.

Col. Thomas Oates Hardin (temporary lieutenant colonel, Army of the United States), Army of the United States, Air Corps.

IN THE NAVY

Capt. Campbell D. Edgar, United States Navy, to be a commodore in the Navy, for temporary service, while serving as commander, transports of an amphibious force, to rank from the 17th day of September 1943.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 21 (legislative day of January 11), 1944:

IN THE NAVY

TEMPORARY SERVICE

Don P. Moon to be a rear admiral in the Navy.

POSTMASTERS

LOUISIANA

Edith W. Ott, Fisher.

Anatole E. Ayo, Jr., Lockport.